

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 75795 / August 31, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3680 / August 31, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16773

In the Matter of

**JOHNSON LAMBERT LLP, and
BRADLEY SCOTT DIERICX, CPA**

Respondents.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 4C OF THE
SECURITIES EXCHANGE ACT OF
1934 AND RULE 102(e) OF THE
COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative proceedings be, and hereby are, instituted against Johnson Lambert LLP (“Johnson Lambert”) and Bradley Scott Diericx, CPA (“Diericx”) (collectively, the “Respondents”), pursuant to Sections 4C¹ of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted violations of, any provisions of the securities laws or the rules and regulations thereunder.

² Rule 102(e)(1)(ii) provides, in relevant part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Public Administrative Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds³ that:

A. SUMMARY

1. These proceedings arise out of Johnson Lambert’s and Diericx’s improper professional conduct in their audits of the financial statements of Maven Assurance Limited (“Maven Assurance”) and Maven Life International Limited (“Maven Life”) (collectively, the “Maven Entities”) for the years ended December 31, 2009 and December 31, 2010. The audits failed to comply with Generally Accepted Auditing Standards (“GAAS”) in many critical respects, which resulted in the issuance of audit reports containing unqualified opinions that were not supported by sufficient appropriate audit evidence. Specifically, Johnson Lambert and Diericx failed to exercise due professional care, failed to adequately staff the Maven audits, failed to obtain sufficient appropriate audit evidence regarding the existence and valuation of the Maven Entities’ purported investments in hedge funds and alternative investments managed by Nikolai Battoo, and failed to exercise professional skepticism by overlooking red flags and other warnings. Due to these audit failures, Johnson Lambert and Diericx failed to detect that the Maven Entities’ purported investments with Battoo either did not exist or had lost virtually all of their value.

2. Johnson Lambert and Diericx were aware that the Maven Entities’ prior auditor had issued a qualified opinion in the prior year due to its inability to obtain sufficient audit evidence regarding the existence and valuation of the investments with Battoo, which constituted the majority of the Maven Entities’ assets. They were also aware that the Maven Entities did not have processes in place to value the investments with Battoo. Nevertheless, Johnson Lambert assembled an audit engagement team that lacked experience auditing alternative investments, and the engagement team failed to perform adequate substantive procedures to address these risks.

³ The findings are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

B. RESPONDENTS

3. Johnson Lambert LLP is an accounting firm headquartered in Falls Church, Virginia. Johnson Lambert provides services to public companies registered with the Commission and has been registered with the Public Company Accounting Oversight Board (“PCAOB”) since 2003. Johnson Lambert conducted audits of the financial statements of the Maven Entities for the years ended December 31, 2009 and December 31, 2010.

4. Bradley Diericx (“Diericx”), age 42, is a resident of Wheaton, Illinois and a certified public accountant (“CPA”) licensed in the state of Illinois. From June 2009 to September 2012, Diericx was a partner at Johnson Lambert and was the engagement partner for Johnson Lambert’s audits of the Maven Entities’ financial statements for the years ending December 31, 2009 and December 31, 2010.

C. OTHER RELEVANT ENTITIES/PERSONS

5. Nikolai Simon Battoo was an alternative investment manager who managed assets using a variety of vehicles and entities. From 2004 through 2012, Battoo raised more than \$400 million from investors who directed their funds to his PIWM investment program and several hedge funds he controlled. Battoo acted as investment adviser to investors in his Private International Wealth Management (“PIWM”) investment program through two entities that he controlled: BC Capital Group, S.A. (Panama) (“BC Panama”) and BC Capital Group Ltd. (Hong Kong) (“BC Hong Kong”) (collectively the “BC Capital entities”). In September 2012, the Commission filed an emergency enforcement action in district court against Battoo and the BC Capital entities, alleging that they defrauded investors located worldwide in violation of the antifraud provisions of the federal securities laws and acted as unregistered broker-dealers (the “SEC Battoo Lawsuit”). On September 30, 2014, the district court entered a default judgment against Battoo and the BC Capital entities, which included permanent injunctions and disgorgement, prejudgment interest, and civil penalties totaling \$358,129,196.86.

6. Maven Assurance Ltd. and Maven Life International Ltd. were insurance companies formed under the laws of Anguilla in 2006. Maven Assurance offered investment products in the form of a so-called “captive insurance” program to high-net-worth individuals and small business owners. Maven Life offered variable annuities. The bulk of the funds that investors directed to the Maven Entities were placed with Battoo’s PIWM investment program. At the time the Commission filed the SEC Battoo Lawsuit, the Maven Entities’ clients believed they had \$95 million invested with Battoo’s PIWM. In reality, Battoo lost or stole nearly all of the Maven Entities’ funds. The Maven Entities, which are now defunct, were never registered with the Commission and had no disciplinary history.

7. Alliance Investment Management Limited (“AIM”) is a Bahamas-based company that is registered as a broker-dealer with the Securities Commission of the Bahamas. AIM is a wholly-owned subsidiary of Benchmark Bahamas Limited, a publicly traded investment company listed on the Bahamas International Securities Exchange. AIM has never been registered in any capacity with the Commission. On August 8, 2014, the Commission filed charges against AIM and its President Julian Brown, alleging that they engaged in fraud and aided and abetted Battoo’s fraud.

D. FACTS

The Maven Entities' Background

8. The Maven Entities offered insurance-linked investment options to U.S.-based investors, mainly high net worth individuals and profitable small businesses. Maven Life sold variable annuities. Maven Assurance purported to offer “captive insurance” products in which the vast majority of the premium was invested at the direction of the investor. The Maven Entities touted their products as means of obtaining tax-deferred gains. The Maven Entities were based in Anguilla, but run by individuals located in the greater Chicago area.

9. In 2006, the Maven Entities entered into investment management agreements with BC Hong Kong, an entity managed and controlled by investment manager Nikolai Battoo. The agreements gave BC Hong Kong discretion to manage the Maven Entities' assets. Since 2006, BC Hong Kong purported to invest the majority of the Maven Assurance's assets into shares of hedge funds (some controlled by Battoo) and in Battoo's PIWM investment program, a private investment program that purported to invest primarily in alternative investments. Maven Life invested in PIWM beginning 2008.

Battoo's Fraud and its Impact on the Maven Entities

10. Battoo oversaw a massive fraud that caused investors worldwide to lose hundreds of millions of dollars. Battoo touted himself as a highly successful alternative asset manager who achieved exceptional risk-adjusted returns. He concealed major losses in his hedge funds and in his PIWM investment program and misappropriated PIWM investors' assets for personal use.

11. In 2008, Battoo's hedge funds suffered major losses in several areas. Battoo's hedge funds had made large, leveraged investments in Madoff feeder funds that suffered total losses as a result of the Madoff Ponzi scheme. In addition, Battoo's hedge funds were invested heavily in fund-linked certificates whose performance was linked to Phi R Squared, a hedge fund managed by Battoo. Phi R Squared suffered substantial losses in 2008 based on impairments caused by the financial crisis. As a result, the fund-linked certificates lost approximately 85% of their value. Battoo's PIWM investment program also suffered substantial losses in 2008 due to its high concentration of exposure to Battoo's hedge funds. Rather than disclose the losses to existing and prospective PIWM investors, Battoo concealed the losses by reporting fictitious strong investment returns in investment reports and marketing materials. He created fictitious account statements and verification reports on the letterhead of AIM, a Bahamas-based broker-dealer. AIM acted as PIWM's custodian. At Battoo's behest, AIM sent account statements and verification reports to investors and their agents. Battoo exacerbated the PIWM investor losses by stealing investor funds to support his extravagant lifestyle.

12. On September 6, 2012, the Commission filed an emergency injunctive action in U.S. district court against Battoo and the entities he controlled. The Commission's complaint alleged violations of: Section 17(a) of the Securities Act of 1933 (“Securities Act”); Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder; and Section 206(4) of the Investment Advisers Act of 1940 (“Advisers Act”) and Rule 206(4)-8 thereunder. On September

30, 2014, the district court entered a default judgment permanently enjoining Battoo and his BC Capital companies from violating Section 17(a) of the Securities Act; Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder; and Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder. The district court also ordered Battoo and his two BC Capital entities to pay disgorgement, prejudgment interest, and penalty, imposed jointly and severally, totaling \$358,129,196.86.

13. The Maven Entities collectively invested nearly \$95 million with Battoo. The Battoo investments represented approximately 78% of the Maven Entities' assets. From 2006 until the Commission filed the SEC Battoo Lawsuit in September 2012, the Maven Entities believed that Battoo had their assets custodied at AIM. In fact, the Maven Entities' AIM accounts held a small fraction of the assets reported to the Maven Entities on their account statements.

Audits of the Maven Entities

14. The Maven Entities hired independent auditors to perform annual audits of their financial statements. Audit Firm A audited the Maven Entities' 2006 financial statements, while Audit Firm B audited the Maven Entities' 2007 and 2008 financial statements. Audit Firm A issued a qualified opinion on Maven Assurance's 2006 financial statements because the firm did not have the necessary information to perform valuation procedures on Maven Assurance's investments in the PIWM program, which constituted approximately 60% of Maven Assurance's assets. Likewise, Audit Firm B, who conducted the 2007 and 2008 audits of the Maven Entities, issued qualified opinions for the 2007 and 2008 Maven Assurance audits due to its inability to obtain reliable audit evidence regarding the existence and valuation of the investments with Battoo.

15. The Maven Entities decided to switch auditors yet again for the 2009 audit. The Maven Entities retained Johnson Lambert to audit the Maven Entities' 2009 financial statements.

16. Diericx served as the engagement partner for the audits. Diericx lacked experience dealing with issues that were prevalent in the audits. Before Johnson Lambert accepted the engagement, Diericx emailed Johnson Lambert's managing partner and a Johnson Lambert tax partner about the engagement. In the email's subject line, Diericx simply wrote "Help." He noted that Maven Assurance's prior financials had "a qualified opinion and other problematic things." In the email, Diericx acknowledged that he had never dealt with valuations of foreign hedge funds or the "[r]amifications/tax risks on what this thing is." He asked for their opinion on whether Johnson Lambert should accept the engagement. The managing partner responded, noting that the prior auditor's qualified opinion was based on its inability to get audited financial statements for a hedge fund investment and audit evidence to support the existence and value of another investment. The managing partner said that unless something has changed in available evidence, Johnson Lambert would have the same opinion issue.

17. Johnson Lambert accepted the engagement. It assigned Diericx as engagement partner, despite his lack of experience dealing with the very issues that were the cause of the prior auditor's qualified opinion – that is, the valuation of foreign hedge funds. To attempt to compensate for Diericx's inexperience, Johnson Lambert's partner responsible for quality control over accounting and auditing practice sent Diericx a link to the American Institute of Certified

Public Accountants' ("AICPA") Practice Guide to Auditing Alternative Investments⁴ and assigned engagement quality control reviewers that the firm believed had expertise in audits involving alternative investments.

18. In fact, no one on the engagement team had experience dealing with these types of investments. No one made the engagement quality control reviewers aware of the engagement team's lack of experience, the risks associated with the engagement, or the problems with the prior audits that led to reports with qualified opinions, nor did anyone instruct the engagement quality control reviewers to devote more effort to the review given the circumstances.

19. Diericx completed both the 2009 and 2010 audits of the Maven Entities. Johnson Lambert issued audit reports with unqualified opinions for each entity in both years. The 2009 and 2010 audit reports for Maven Assurance and Maven Life stated that Johnson Lambert audited the Maven Entities' financial statements in accordance with GAAS and expressed its opinion that the financial statements presented fairly, in all material respects, the financial position of the Maven Entities as of December 31, 2009 and December 31, 2010, in accordance with U.S. generally accepted accounting principles ("GAAP"). The investments in Battoo's alternative investment program constituted approximately 79% of the Maven Entities' total assets according to their 2009 and 2010 financial statements.

Johnson Lambert's and Diericx's improper professional conduct

20. Contrary to the representations in the audit reports, Johnson Lambert's audits were not conducted in accordance with GAAS. Johnson Lambert and Diericx deviated from GAAS in many critical respects that resulted in the issuance of audit reports with unqualified opinions that were not supported by sufficient appropriate audit evidence.

Johnson Lambert and Diericx failed to exercise due professional care and to adequately staff the Maven Entity audits.

21. GAAS requires auditors to exercise due professional care in the planning and performance of the audit and the preparation of the report. AU § 230.01-02.⁵ Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability, so that they can evaluate the audit evidence they are examining. The auditor with final responsibility for the engagement should know, at a minimum, the relevant professional accounting and auditing standards, and should be knowledgeable about the client. AU § 230.06. Auditors must have adequate technical training and proficiency to perform the audit, and the firm

⁴ In 2006, the AICPA's Alternative Investment Task Force developed and issued a practice aid for auditors titled "Alternative Investments – Audit Considerations" ("AICPA Alternative Investment Aid"). As noted in the publication, the information in it "is intended to provide guidance to auditors" and "may help the auditor understand and apply the Statements on Auditing Standards." According to Johnson Lambert personnel, they considered this practice aid to be the best source of audit guidance on alternative investments.

⁵ Citations to "AU" are citations to Statements on Auditing Standards issued by the AICPA in effect at the time of the relevant conduct.

should consider in accepting or continuing the client engagement whether it has sufficient personnel with the necessary capabilities and competence. AU § 210.01; QC § 10.31.⁶ Auditors should consider whether specialized skills are needed to perform the audit and seek the assistance of a professional possessing such skills. AU § 311.22.

22. Diericx and Johnson Lambert lacked an understanding of applicable U.S. professional auditing standards for staffing and planning the Maven audits. Johnson Lambert failed to staff the Maven Entities' audits with audit staff with adequate competence and experience to perform the audits, and otherwise failed to compensate for the audit staff's lack of competence through other means. Though alternative investments constituted most of the Maven Entities' assets, Diericx lacked adequate professional training to audit the existence and value of such assets.

23. The only steps Johnson Lambert took to attempt to compensate for Diericx's lack of competence and experience with alternative investments was to provide Diericx with the AICPA Alternative Investment Aid and to appoint engagement quality control reviewers with alternative investment experience. However, the assigned reviewers were not members of the engagement team and, consistent with AICPA standards, they did not participate in the planning or performance of the Maven Entities' audits or in the gathering of audit evidence. QC § 10.94-95; *see also* QC §10.82 ("the engagement partner [is] responsible for the engagement and its performance, notwithstanding involvement of the engagement quality control reviewer"). In fact, Johnson Lambert's policies and procedures prohibited the engagement quality control reviewer from participating in the performance of the engagement, and provided that significant consultation between the engagement team and the engagement quality control reviewer during the audit could necessitate assignment of a new engagement quality control reviewer. Because the engagement quality control reviewers had no substantive involvement in the Maven Entities' audits, they did little to compensate for Diericx's incompetence and inexperience. Johnson Lambert did not take any steps to assess whether the engagement team was consulting with others with the necessary expertise, or to ensure that the engagement quality control reviewers devoted more effort to their review in light of Diericx's lack of experience.

Johnson Lambert and Diericx failed to obtain sufficient appropriate audit evidence to support its audit opinion on the Maven Entities' financial statements.

24. Auditors "must obtain sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit." AU § 326.01. Johnson Lambert and Diericx failed to plan and perform sufficient substantive audit procedures to obtain sufficient appropriate audit evidence of the existence and valuation of the Maven Entities' investments with Battoo, and otherwise failed to properly evaluate the reliability of third-party information concerning those investments.

25. Once an audit team identifies risks of material misstatement at the financial statement level, "the auditor should plan and perform substantive procedures to be responsive to the related assessment of the risk of material misstatement." AU § 318.50. "The auditor should

⁶ Citations to "QC" are citations to Statements on Quality Control Standards issued by the AICPA in effect at the time of the relevant conduct.

design tests of details responsive to the assessed risk with the objective of obtaining sufficient appropriate audit evidence to achieve the planned level of assurance at the relevant assertion level.” AU § 318.56.

26. With respect to auditing investments in securities, auditors should use the assessed levels of inherent risk and control risk for assertions about the securities to determine the nature, timing, and extent of the substantive procedures to be performed to detect material misstatements of the financial statement assertions. AU § 332.19. Substantive procedures to test existence of securities may include confirmation with the issuer of the security, physical inspection of the security, and reading or inspecting underlying agreements or other forms of supporting documentation. AU § 332.21. Auditors should also obtain evidence supporting management’s assertions about the fair value of securities measured or disclosed at fair value. AU § 332.35.⁷ When the valuation of investments in securities is based on fair value, the auditor should test the entity’s fair value measurements and disclosures, which may involve, among other things, testing management’s significant assumptions, the valuation model, and the underlying data, or developing independent fair value estimates for corroborative purposes. AU § 328.23. “In circumstances in which the auditor determines that the nature and extent of auditing procedures should include verifying the existence and testing the measurement of investments in securities, simply receiving a confirmation from a third party, either in aggregate or on a security-by-security basis, does not in and of itself constitute adequate audit evidence with respect to the valuation assertion in section 332.” AU § 9332.02. Furthermore, receiving confirmation from a third party for investments in aggregate does not constitute adequate audit evidence with respect to the existence assertion. *Id.*

27. Johnson Lambert and Diericx identified certain risks with respect to the existence and value of the Maven Entities’ investments even before they accepted the engagement. They knew that the previous auditor’s inability to obtain audit evidence of the existence and value of the Maven Entities’ alternative investments resulted in the issuance of reports with qualified opinions. Nevertheless, they accepted and completed the engagements without planning or performing sufficient substantive procedures to address the existence assertion and the valuation assertion regarding these investments.

28. According to Maven Assurance’s financial statements and account statements provided by AIM and PIWM, Maven Assurance purportedly had more than \$75 million invested in Battoo’s PIWM program during 2009 and 2010, or 78% of its total assets, which consisted primarily of hedge funds as well as other “managed accounts” comprised of alternative investments. Likewise, Maven Life purportedly had more than \$5 million invested in PIWM’s alternative investment strategies in 2009 and more than \$10 million in 2010, representing more than 80% of its total assets.

29. Although the investments in Battoo’s PIWM program constituted the majority of the Maven Entities’ assets, Johnson Lambert and Diericx never attempted to contact the managers of the underlying hedge fund investments in PIWM to confirm the Maven Entities’

⁷ Generally accepted accounting principles may require that a security be valued based on cost, the investee’s financial results, or fair value. AU § 332.26. The Maven Entities’ financial statements purported to present investments at fair value.

interests in the funds or to assess the reasonableness of the valuations in the Maven Entities' financial statements. Instead, Johnson Lambert and Diericx took at face value confirmations received from AIM, the purported custodian of the assets, and PIWM, the investment program operated by Battoo. They did so even though the confirmations provided little information about the specific investments purportedly owned by the Maven Entities.

30. Had Johnson Lambert or Diericx contacted the hedge funds identified on the AIM account statements, they may have discovered that the Maven Entities' investments in those hedge funds did not come close to matching the investments reflected on the AIM account statements. Indeed, in most cases, the Maven Entities did not own any interest in the hedge funds listed on the AIM account statements.

31. The AIM account statements and audit confirmations contained virtually no information about the purported investments held by the Maven Entities in "managed accounts." The confirmations merely identified the name and purported strategy of the account (*e.g.*, "Alliance – PIWM-I: Multi-Strategy Managed Futures & Commodities"), and the dollar value of each managed account. Johnson Lambert did not attempt to determine what the underlying investments were that constituted the managed accounts or the value of those investments. The AIM confirmations also included date discrepancies on their face (one AIM portfolio confirmation for December 31, 2010 stated that it was "as of 2/9/2010" with "12/31/2010 prices"), which no one at Johnson Lambert recognized during the audits.

32. Rather than perform any additional substantive testing of the existence and value of the Maven Entities' purported investments listed in the AIM audit confirmations, Johnson Lambert and Diericx relied on representations by Julian Brown, AIM's President, regarding the existence and value of the investments. They did so even though Brown acknowledged that AIM did not monitor net asset values of the investments and directed Johnson Lambert to contact advisors, sub-custodians, and fund managers with specific questions relating to the confirmations. Johnson Lambert and Diericx failed to acknowledge or follow-up on these red flags.

33. The failure to perform adequate substantive audit procedures to test the existence and value of the majority of the Maven Entities' assets was particularly problematic in light of Johnson Lambert's and Diericx's identification of internal control weaknesses in this area. Management is responsible for making the fair value measurements and disclosures included in the financial statements, which includes establishing an accounting and financial reporting process for determining the fair value measurements and disclosures, selecting appropriate valuation methods, identifying and adequately supporting any significant assumptions used, preparing the valuation, and ensuring that the presentation and disclosure of the fair value measurements are in accordance with GAAP. AU § 328.04. In November, 2010, Johnson Lambert issued a letter to the Maven Entities' Board of Directors, which identified "significant deficiencies" in the Maven Entities' internal controls relating to their investments. Johnson Lambert noted that the Maven Entities did not have a process in place to independently evaluate the fair value measurement procedures performed by its fund managers. Yet the auditors still failed to design substantive procedures to test the valuations of the investments provided by third parties or the assumptions underlying those valuations. AU §§ 332.19, 35, 38-39, 41, 43. Johnson Lambert and Diericx relied entirely on valuations provided by PIWM and AIM without

any support for how those valuations were being calculated and without any information from underlying hedge fund managers.

Johnson Lambert and Diericx failed to exercise professional skepticism by overlooking “red-flags.”

34. Due professional care requires an auditor to exercise professional skepticism, which “includes a questioning mind and a critical assessment of audit evidence.” AU § 230.07. In addition, the auditor should “consider the competency and sufficiency of the evidence. Since evidence is gathered and evaluated throughout the audit, professional skepticism should be exercised throughout the audit process.” AU § 230.08. Auditors should also place emphasis on testing material transactions with parties he/she knows are related to the reporting entity. AU § 334.07.

35. Johnson Lambert and Diericx failed to exercise such skepticism. They overlooked red flags and other warnings in the course of the Maven audits. For example, the audit confirmations Johnson Lambert and Diericx sent to PIWM and AIM (the only procedure around the existence and valuation assertions performed by Johnson Lambert and Diericx) were addressed to the same P.O. Box in Nassau, Bahamas. Yet Johnson Lambert and Diericx accepted the confirmation results without question at face value and without performing any additional procedures related to the information contained in those confirmations. *See* AU § 330.27 (in the confirmation process, “[i]f information about the respondent’s . . . objectivity and freedom from bias with respect to the audited entity comes to the auditor’s attention, the auditor should consider the effects of such information on . . . evaluating the results, including determining whether other procedures are necessary;” where respondent is custodian of material amount of audited entity’s assets, auditor should exercise heightened degree of professional skepticism); AU § 330.04 (confirmation process should include “[e]valuating the information . . . provided by the third party . . . including the reliability of that information.”).

36. Johnson Lambert’s internal workpapers disclosed that the custodian of the Maven Entities’ investments was BC Hong Kong (not AIM), which was controlled by Battoo, and that BC Hong Kong used AIM as a “sub-custodian.” BC Hong Kong and BC Panama were controlled by Battoo and closely related to AIM through Julian Brown, President of AIM, who was on the Executive Board of BC Panama. Further, the workpapers reflected that until May 2009, Maven and BC Hong Kong shared a common director. These related party relationships necessitated heightened professional skepticism and scrutiny by Johnson Lambert and Diericx. In fact, Johnson Lambert and Diericx ignored these issues.

37. There were numerous other factors that should have caused Johnson Lambert and Diericx to conduct their audits with a heightened degree of professional skepticism and consider whether additional procedures or audit evidence was required, including:

- a. The Maven Entities’ prior auditor told Diericx that it had issued reports with qualified opinions, in part, because it was unable to obtain adequate audit evidence of the existence of or the valuation of the Maven Entities’ managed accounts allegedly held at AIM.

- b. The Maven Entities had no process in place to independently evaluate the fair value measurement procedures performed by the funds purportedly holding their assets.
- c. The account statements Johnson Lambert received from AIM, the purported custodian of the Maven Entities' investments, contained "as of" dates that did not match the year end date (*e.g.*, for the 2010 audit, AIM sent Johnson Lambert statements for "12/31/2010 prices" but which were "as of 2/9/2010"). Johnson Lambert and Diericx made no additional inquiries regarding the "as of" date discrepancies on the AIM account statements.

E. FINDINGS

38. Based on the foregoing, the Commission finds that Johnson Lambert and Diericx engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.⁸

F. UNDERTAKINGS

39. Review of Written Policies and Procedures. Johnson Lambert shall, within sixty (60) days after the entry of this Order, evaluate its existing written policies and procedures and shall make such revisions as may be necessary in order to adopt, implement, and enforce written policies and procedures to provide reasonable assurance that Johnson Lambert's audits are conducted in compliance with (a) the relevant Commission regulations and (b) audit and attest standards relevant to appearing and practicing before the Commission. Johnson Lambert shall review and revise as necessary its written policies and procedures in the following areas: (i) client and engagement acceptance; (ii) the staffing of engagements; (iii) contact with and requests for information from prior auditors; (iv) performing proper risk assessment; (v) obtaining sufficient appropriate audit evidence relating to investments in securities; (vi) testing for valuation and existence of investments in securities; (vii) auditing of alternative investments; (viii) third-party confirmations; (ix) work paper review and signoff by engagement quality control reviewers; and (x) related-party transactions and relationships.

40. Retention of an Independent Consultant. Johnson Lambert shall retain, within sixty (60) days after the entry of this Order, an independent consultant ("Independent Consultant"), not unacceptable to the Commission staff. Johnson Lambert will require the Independent Consultant to review and evaluate the audit and interim review policies and procedures of Johnson Lambert regarding (i) client and engagement acceptance; (ii) the staffing of engagements; (iii) contact

⁸ Section 4C(b) and Rule 102(e)(1)(iv) define improper professional conduct with respect to persons licensed to practice as accountants. Pursuant to these provisions, "improper professional conduct" includes two types of negligent conduct: (1) a single instance of highly unreasonable conduct that results in a violation of professional standards in circumstances where heightened scrutiny is warranted; or (2) repeated instances of unreasonable conduct, each resulting in violations of professional standards, that indicate a lack of competence.

with and requests for information from prior auditors; (iv) performing proper risk assessment; (v) obtaining sufficient appropriate audit evidence relating to investments in securities; (vi) testing for valuation and existence of investments in securities; (vii) auditing of alternative investments; (viii) third-party confirmations; (ix) work paper review and signoff by engagement quality control reviewers; and (x) related-party transactions and relationships. Johnson Lambert will require that the Independent Consultant's review and evaluation assess the foregoing areas to determine whether Johnson Lambert's policies and procedures are adequate and sufficient to ensure compliance with (a) the relevant Commission regulations and (b) audit and attest standards relevant to appearing and practicing before the Commission. Johnson Lambert will cooperate fully with the Independent Consultant and will provide reasonable access to firm personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's reviews and evaluations. Johnson Lambert will provide the Commission staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities.

41. Within ninety (90) days of being retained, Johnson Lambert will require the Independent Consultant to issue a report ("Report") to Johnson Lambert: (a) summarizing the Independent Consultant's review and evaluation; and (b) making recommendations, where appropriate, reasonably designed to ensure that audits conducted by Johnson Lambert comply with Commission regulations and relevant audit and attest standards. At Johnson Lambert's direction, the Independent Consultant will provide a copy of the Report to the Commission staff when the Report is issued.

42. Johnson Lambert will adopt, as soon as practicable, the recommendations of the Independent Consultant in the Report. Provided, however, that within thirty (30) days of issuance of the Report, Johnson Lambert may advise the Independent Consultant in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. Johnson Lambert need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the Commission staff an alternative policy or procedure designed to achieve the same objective or purpose. Johnson Lambert and the Independent Consultant will engage in good-faith negotiations in an effort to reach agreement on any recommendations objected to by Johnson Lambert.

43. In the event that the Independent Consultant and Johnson Lambert are unable to agree on an alternative proposal within thirty (30) days, Johnson Lambert will abide by the determinations of the Independent Consultant.

44. Within sixty (60) days of issuance of the Report, Johnson Lambert will certify to the Staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification of Compliance").

45. Johnson Lambert will require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Johnson Lambert, or any of its present or former affiliates, directors, officers, employees, or agents acting in their

capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Commission's Chicago Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Johnson Lambert, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

46. Johnson Lambert's Acceptance of New Public Company Audit Clients. Johnson Lambert shall not accept engagements for new clients for public company audits prior to the later of one (1) year from the date of entry of this Order, or the date of issuance of the Certification of Compliance. A public company audit is defined as an engagement to audit the financial statements of an "issuer" as that term is defined in Section 2(a)(7) of the Sarbanes-Oxley Act of 2002. In addition, Johnson Lambert shall not accept audit engagements for new clients pursuant to the Exchange Act, the Securities Act, the Advisers Act, or the Investment Company Act of 1940, prior to the later of one (1) year from the date of entry of this Order, or the date of issuance of the Certification of Compliance.

47. Training and Professional Development. Johnson Lambert shall establish, implement, and enforce policies and procedures designed to provide reasonable assurances that Johnson Lambert's professionals participate in professional development activities in accordance with firm guidelines, in subjects that are relevant to their responsibilities, and will contribute to their technical training and proficiency as auditors. Johnson Lambert shall require each audit professional to undergo a minimum of eight (8) hours of audit-related training on topics including, but not limited to: (i) exercising due professional care and professional skepticism; (ii) evaluating third party confirmations involving investments in securities; (iii) audit planning, including but not limited to the staffing of engagements, contact with and requests for information from prior auditors, and performing proper risk assessment; (iv) obtaining sufficient appropriate audit evidence; (v) auditing of alternative investments; (vi) related party transactions and relationships; and (vii) adequate audit documentation relating to the above.

48. Certification of Compliance. Johnson Lambert 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 Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Jeffrey A. Shank, Assistant Regional Director, Chicago Regional Office, 175 W. Jackson Boulevard, Suite 900, Chicago, IL 60604, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street, N.E., Washington DC 20549, no later than sixty (60) days from the date of the completion of the undertaking(s).

49. Cooperation with the Commission's Investigation and Related Litigation. Johnson Lambert (including its partners, principals, officers, agents, and employees) and Diericx shall cooperate fully with the Commission in any and all investigations, litigations, administrative and

other proceedings commenced by the Commission or to which the Commission is a party relating to or arising from the matters described in this Order. In connection with such investigation, litigation, administrative or other proceedings, Respondents agree to the following: (i) to produce, without service of a notice or subpoena, any and all documents and other materials and information as requested by the Commission; (ii) to appear and testify without service of a notice or subpoena in such investigations, interviews, depositions, hearings, and trials, at such times and places as reasonably requested by the Commission; and (iii) to respond promptly to all inquiries from the Commission. The foregoing obligations are subject to Johnson Lambert's and Diericx's rights: (i) to claim that documents or information requested is subject to attorney-client privilege or attorney work product protection; and (ii) to seek entry of a confidentiality order as to (aa) sensitive business documents or information, (bb) sensitive personnel documents or information, or (cc) confidential information pertaining to clients other than the Maven Entities.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. Johnson Lambert is hereby censured.
- B. Johnson Lambert shall comply with the undertakings enumerated in Section III, paragraphs 39 to 49 above.
- C. Diericx is denied the privilege of appearing or practicing before the Commission as an accountant.
- D. After three years from the date of this order, Diericx may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:
 1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his/her practice before the Commission will be reviewed either by the independent audit committee of the public company for which he/she works or in some other acceptable manner, as long as he/she practices before the Commission in this capacity; and/or
 2. an independent accountant. Such an application must satisfy the Commission that:
 - (a) Diericx, or the public accounting firm with which he is associated, is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

- (b) Diericx, or the registered public accounting firm with which he is associated, has been inspected by the PCAOB and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;
 - (c) Diericx has resolved all disciplinary issues with the PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and
 - (d) Diericx acknowledges his responsibility, as long as Diericx appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the PCAOB, including, but not limited to, all requirements relating to registration, inspections, engagement quality control reviewer procedures and quality control standards.
- E. The Commission will consider an application by Diericx to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Diericx's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Brent J. Fields
Secretary