UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84763/ December 10, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3996 / December 10, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18917

In the Matter of **AGRIA CORPORATION,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO 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 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Agria Corporation ("Agria" 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 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 finds[1] that:

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[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.

Summary

1. Agria violated the anti-fraud, reporting, books and records, and internal accounting control provisions of the federal securities laws. Between 2010 and 2013, Agria engaged in a course of fraudulent accounting related to its July 2010 divestiture of Taiyuan Primalights III Modernized Agriculture Development Co., Ltd. ("P3A"), a consolidated affiliated entity. Agria materially overstated the value of the consideration it received in the transaction and concealed material losses as a result of the divestiture.

2. The divestiture involved a related-party exchange between Agria and P3A's president. Agria transferred its ownership interest in P3A to P3A's president in exchange for 14.393 million shares of Agria's common stock. Agria incurred a loss on the transaction, which it materially underreported. In doing so, Agria ignored controlling accounting guidance and manipulated its valuation of the shares it received.

3. As part of the transaction Agria received land use rights from P3A relating to 13,500 acres of leased agricultural property in China. The leased properties were located in a remote mountainous area which had a severe lack of rainfall, other natural water sources and infrastructure for irrigation. Although P3A had in the past used the lands for sheep breeding, Agria was not engaged in that business and was otherwise unable to use the lands for any revenue generating purpose from the time of divestiture. Nor was Agria able to develop a business plan that would generate future cash flows. In addition, legal defects in the leases obtained by P3A from the original lessors and in the lease transfer agreements between P3A and Agria precluded Agria from selling or subleasing the properties. Agria's senior management was aware of these legal defects prior to the P3A divestiture.

4. The changes in use of the lands and the legal defects constituted impairment indicators that required Agria to perform an impairment analysis to determine whether it would be able to recover the carrying value of the land use rights. Agria's senior financial officers knowingly or recklessly failed to perform the analysis and to impair the carrying value of the land use rights.

5. In early 2013 Agria did perform an impairment analysis and wrote off the full \$57.3 million carrying value of the land use rights. The impairment decision was based on facts that were known or readily knowable in 2010: The land had no economic viability, and the legal defects precluded Agria from realizing any salvage value through resale. Because the facts giving rise to the impairment had existed since 2010, Agria's decision to record the impairment in 2013, rather than restating its financial statements for 2010 through 2012, was improper.

6. Agria's delay in impairing the carrying value of the land use rights and its subsequent failure to restate its 2010-2012 financial statements allowed it to hide the impact of the impairment on its 2010 balance sheet and income statement and on its 2011 and 2012 balance sheets.

7. By engaging in the conduct described in this Order, Agria violated Exchange Act Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Rules 10b-5, 12b-20, 13a-1 and 13a-16 thereunder.

Respondent

8. **Agria** is a Cayman Islands company engaged in the agricultural business, with operations in the People's Republic of China, New Zealand, and Australia. Agria's corporate headquarters during the relevant period was in Hong Kong. Agria is a foreign private issuer whose ordinary shares were registered with the Commission pursuant to Exchange Act Section 12(b). Agria's American Depository Shares ("ADSs"), each representing two ordinary shares, traded on the New York Stock Exchange under the symbol "GRO." The NYSE suspended trading in Agria's ADSs on November 3, 2016 and they were delisted on January 2, 2017.

Other Relevant Entity

9. **P3A** was a limited liability company established in China with three primary product lines: corn seed, sheep breeding, and seedlings. Prior to the July 2010 divestiture, P3A served as Agria's primary operating entity in China. Because government regulations restricted foreign ownership of the seed and sheep businesses, Agria conducted its Chinese operations through contractual arrangements with P3A and its shareholders, all of whom were required to be Chinese citizens. P3A's financial results were recorded in Agria's consolidated financial statements prior to the divestiture.

Background

A. The July 2010 Divestiture of P3A

10. In early 2010 Agria negotiated an agreement with P3A's president for Agria to divest its P3A ownership interest. The divestiture resulted in Agria discontinuing all its sheep-breeding operations, leaving it to focus on its seed business in China.

11. The divestiture involved the following exchange: Agria transferred its 100% ownership interest in P3A to P3A's president, and in return P3A's president transferred his ownership of 11.5% of Agria's outstanding shares. Agria also acquired, for no additional consideration, the land use rights held by P3A. Agria accounted for the P3A divestiture as a discontinued operation.

12. Agria retained three external advisory firms in order to assess the fairness of the terms of the divestiture.

13. A Chinese law firm issued a legal opinion regarding the land use rights. The rights were to nine parcels of land covering 13,500 acres. P3A had entered into long-term lease agreements with village collectives. The parcels were located in a remote area of Shanxi Province, far from Agria's primary bases of operations in Beijing and Shenzhen. The land itself was of poor soil quality, in an area with little natural rainfall, serious water shortages, and no infrastructure for irrigation.

14. The legal opinion identified defects relating to the legality of the leases that P3A had originally obtained. Among the defects, eight of the nine lessors did not hold valid title

certificates; lessors for two of the parcels were not the legal owners; the 30-year leasing period for eight of the lots was ten years in excess of the statutory limit under Chinese law; and the lease agreements for seven of the parcels were not registered with the local government. The opinion further advised that because Agria had not obtained written consent of the underlying lessors, the lease transfer agreements from P3A to Agria were not "legal and effective." Agria and its senior management knew that neither P3A nor Agria had obtained the lessors' written consent to the lease transfer agreements and that they would be unable to do so in the future.

15. A consulting firm prepared a report on the fair value of Agria's 100% equity interest in P3A's assets, as well as a report on the calculated value of the rental prepayments for the unexpired lease terms underlying the land use rights. The consulting firm advised that the calculation report was not a "valuation" of the land use rights. The calculation was based on "certain assumptions and selective data," provided by Agria, the most important of which was the assumption that the properties could "be legally leased or sub-leased in the market without any legal defects in terms of relevant tenancy." The calculations made "no allowance . . . for any potential title defects," such as those identified by the Chinese law firm.

16. A financial advisory firm separately assessed the impact of the divestiture on Agria's fair market value. For the purposes of this assessment, Agria instructed the firm to calculate the fair value of the P3A net assets that Agria divested as the difference between the fair value of P3A's total assets and the calculated value of the land use rights rental prepayments.

17. Agria's board of directors approved the terms of divestiture on July13, 2010.

B. Agria's Fraudulent Accounting Relating to the P3A Disposal

18. As Agria prepared its 2010 financial statements, it was required to determine its gain or loss on the P3A divestiture using Generally Accepted Accounting Principles ("GAAP"). Under GAAP, the gain or loss is determined by measuring the difference between the fair value of the consideration received and the carrying value of the assets divested. The consideration received consisted of 14.393 million shares of Agria common stock. The assets divested consisted of P3A's total assets less the acquired land use rights.

19. *Accounting Standards Codification* 845-10 ("ASC 845-10") provides a framework for accounting for transactions that include nonmonetary elements. It provides specific guidance for nonreciprocal, "split-off" transactions, such as the P3A divestiture, that involve the transfer of a subsidiary to another party in exchange for the entity's shares held by that party. Under ASC 845-10, the split-off transaction should be accounted for based on the fair value of the assets transferred or the fair value of the shares reacquired, whichever is the more clearly evident basis of measurement.

20. The fair value of the Agria shares received (transferred by P3A's president to Agria) was reflected by the market price of those shares. Agria's ADSs, each of which represented two shares of common stock, were publicly traded on the NYSE, and the market price of the ADSs was readily observable.

21. Instead of relying on the objective evidence available to it, Agria employed the assumption that the fair value of the shares it received was equal to a calculated value of the P3A net assets it divested. That calculation relied on the two reports prepared by the consulting firm during the due diligence process, namely the valuation report on P3A's total assets and the calculation report relating to the retained land use rights.

22. Agria's valuation was improper for two reasons. First, because Agria's ADSs were publicly traded on the NYSE, the available market price rather than the calculated value of P3A net assets divested was the more clearly evident basis for measuring the fair value of the shares. Second, the calculated value of P3A net assets divested relied on assumptions that Agria's senior financial management knew to be false. The most important of these false assumptions was that the land use rights were free of legal defects.

23. Agria's improper valuation allowed it to book an inflated value of $1.88 per share for the common stock it received. During the relevant time, based on the market price of $1.27 per ADS, Agria's common stock effectively traded at a price of $0.635 per share. The improper valuation enabled Agria to conceal a loss on the P3A divestiture of approximately $17.5 million, instead of the loss it reported of only $0.2 million.

C. Agria's Fraudulent Accounting Relating to Impairment of Land Use Rights

i. *Agria Failed to Perform an Impairment Assessment of the Land Use Rights in Connection with its 2010 Financial Statements.*

24. ASC 360-10 provides that a long-lived asset shall be tested for impairment whenever events or changes in circumstances indicate that its carrying value may not be recoverable. (ASC 360-10-35-21). The carrying value of an asset is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the asset's use and eventual disposition. (ASC 360-10-35-17).

25. ASC 360-10-35-21 provides examples of impairment indicators, including:

- a significant adverse change in the extent or manner in which a long-lived asset is being used or in its physical condition;

- a significant adverse change in legal factors or in the business climate that could affect the value of a long-lived asset, including an adverse action or assessment by a regulator.

(ASC 360-10-35-21b and c).

26. During the preparation of Agria's 2010 financial statements, the company's senior financial management knew of two impairment indicators resulting from the P3A divestiture. First, having divested its sheep-breeding operations, Agria was no longer able to use the land to generate revenue. Second, Agria had been advised by counsel that without written consent of the lessors, the lease transfer agreements were neither legal nor effective. Both developments

constituted significant adverse changes indicating that the carrying value of the land use rights might not be recoverable.

27. With the existence of the two significant adverse changes, the controlling accounting guidance required Agria to estimate the future cash flows "directly associated with and …expected to arise as a direct result of the use and eventual disposition of the asset" to determine whether they exceeded the carrying amounts of the land use rights, and if not, how much the carrying amounts should be impaired. Agria's senior financial officers were familiar with the accounting guidance and knowingly or recklessly failed to conduct this analysis.

28. Had Agria conducted an impairment analysis, it would have had to write down the carrying value of the land use rights. Agria knew that it had been unable to identify any economic use for the land and therefore had no basis for projecting a cash flow. In June 2011 Agria's then-CFO confirmed to its outside auditors that the company had not yet been able to develop a feasible business plan.

29. It was also clear to Agria that the land use rights had no salvage value because, as counsel had advised, the lease transfer agreements were not "legal and effective" without written consent of the original lessors. In mid-June 2011, Agria's senior financial officers were aware that its outside counsel refused to sign a written confirmation to the company's auditors that Agria "can legally sublease its right to the leased land to a third party."

ii. *Agria Continued its Failure to Impair the Value of the Land Use Rights in 2011 and 2012.*

30. Agria changed its fiscal year-end beginning with 2011, from December 31 to June 30. On December 16, 2011, Agria filed a Form 20-F Transition Report containing financial statements for the six months ended June 30, 2011. On October 10, 2012, Agria filed its 2012 Form 20-F with audited financial statements covering the year ended June 30, 2012 and the six months ended June 30, 2011. Agria continued to record the amortized carrying values for the land use rights in its financial statements for both reporting periods.

31. Agria knowingly or recklessly failed to assess the land use rights for possible impairment for both its 2011 and 2012 financial statements. The impairment indicators that required an assessment in connection with the 2010 financial statements continued to exist in those years. Agria was still unable to use the land in a commercially viable manner, and remained unable to realize any salvage value through resale.

iii. *Agria Improperly Impaired the Land Use Rights in 2013 Rather than Restating its Financial Statements for 2010 through 2012.*

32. On March 13, 2013, Agria filed a Form 6-K reporting its financial results for the six months ended December 31, 2012. It reported that "[i]n accordance with US GAAP Accounting Standards Codification (ASC) Section 360, without clear visibility as to its cash flow generating capacity in the foreseeable future, we determined that it was appropriate to record an impairment provision of RMB357.3 million (US$57.3 million) for the six months ended December 31, 2012,

which was the aggregate sum of our unamortized prepayments for the [land use rights]." The $57.3 million reflected the amortized carrying value of the land use rights as of year-end 2012.

33. Agria based its decision to take a full impairment of the carrying value of the land use rights on two factors that were known to exist at the time the company acquired the rights to the land: (i) The leased lands had no expected future economic viability, primarily due to the poor soil quality, the lack of rainfall and irrigation infrastructure, and the cost of fertilizer; and (ii) as determined by an independent valuation specialist, the legal defects that Agria's counsel had identified in 2010 "severely affected" the land values and prevented the company from reselling the land use rights. As a result, Agria's senior managers knew or were reckless in not knowing that the company should have recorded the impairment in prior periods rather than in 2013.

34. Agria's fiscal year 2013 financial statements incorporated the impairment of the land use rights in both its balance sheet and income statement.

35. Under GAAP a company is required to restate its prior year financial statements to correct prior period material errors resulting from, among other things, oversight or misuse of facts that existed at the time the financial statements were prepared. ASC 250-10.

36. As confirmed by the company's internal documentation, Agria's 2013 decision to write off the full carrying value of the land use rights was based on facts known or readily knowable at the time of the P3A divestiture. Agria's senior financial officers knew or were reckless in not knowing that the prior period errors were material to Agria's financial statements in those earlier periods.

37. Agria knew or was reckless in not knowing that, following its impairment of the land use rights in 2013, it was required to restate its financial statements for 2010-2012. Agria failed to restate its prior financial statements.

D. Agria's Accounting Failures were Material.

38. Agria's divestiture of P3A was effective as of July 13, 2010. In fiscal year 2010 Agria reported $222 million in shareholders' equity and a net loss of $8.9 million on revenue of $4.3 million. By overvaluing the stock it received in the P3A divestiture, Agria concealed a loss of approximately $17.45 million, which would have tripled its net reported loss. Further, by failing to impair the carrying value of the land use rights Agria concealed an additional loss of $59.2 million. Had the carrying value of the land use rights been impaired in 2010 as required, Agria's reported net loss would have increased by a factor of six, and the equity on its balance sheet would have been reduced by 27%.

39. Agria's delay in impairing the carrying value of the land use rights was equally material to its 2011 and 2012 financial statements. In 2011 Agria reported $224 million in shareholders' equity, and in 2012 it reported $228 million in shareholders' equity. As a result of its failure to impair the carrying value of the land use rights, Agria materially overstated its assets.

E. Agria Made Inaccurate and Materially Misleading Disclosures Regarding the Basis for the Impairment of the Land Use Rights.

40. On March 13, 2013, Agria issued a press release on Form 6-K in which it announced the full impairment of the land use rights. That disclosure was materially misleading because it presented that the reasons for the impairment as having arisen only in late 2012 and early 2013, when in truth the impairment was based on facts that had been known to Agria since 2010. The press release stated that Agria had conducted "extensive trial plantation of grass" and that the evaluation of that effort was "completed in late 2012 and indicated that it would not be economically viable to carry out large scale commercial plantation on this land." In fact, however, Agria had known since 2010 that the lands could not be used for any commercially viable purpose and had no salvage value. These misrepresentations were material because it concealed from investors the fact that Agria had carried a materially overvalued asset on its books for several years.

Legal Standards and Violations

41. Under Exchange Act Section 21C(a) the Commission may impose a cease-and-desist order upon any person who is violating, has violated, or is about to violate any provision of the Exchange Act or any rule or regulation thereunder, and upon any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation.

42. Exchange Act Section 10(b) makes it unlawful "[t]o use or employ, in connection with the purchase or sale of any security[,] . . . any manipulative or deceptive device or contrivance in contravention of" rules enacted by the Commission. Rule 10b-5 implements Section 10(b) and makes it unlawful for any person, directly or indirectly, in connection with the purchase or sale of any security: (a) to employ any device, scheme, or artifice to defraud; (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Agria violated Section 10(b) and Rule 10b-5(b) thereunder by materially underreporting the loss incurred on its disposal of P3A and overvaluing the value of the shares acquired in that transaction. Agria knowingly or recklessly reported a materially inflated carrying value of the land use rights for fiscal years 2010 through 2012. Agria also improperly recorded the impairment of the land use rights in 2013, rather than in prior years.

43. Exchange Act Section 13(a) and Rule 13a-1 thereunder require that every issuer of a security registered pursuant to Exchange Act Section 12 file with the Commission annual and other reports as the Commission may require. Exchange Act Rule 13a-16 requires foreign private issuers to furnish certain information to the Commission in Form 6-K reports. Exchange Act Rule 12b-20 requires that, in addition to the information expressly required to be included in a statement or report filed with the Commission, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made not misleading. Agria violated these reporting provisions by filing with the

Commission annual reports for fiscal years 2010 through 2013 that materially misstated its financial position.

44. Exchange Act Section 13(b)(2)(A) requires all reporting companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets. Agria violated Section 13(b)(2)(A) by maintaining false and misleading books, records and accounts concerning the loss incurred on its disposal of P3A and the value of the shares acquired in that transaction, and the value of its land use rights for fiscal years 2010 through 2013.

45. Exchange Act Section 13(b)(2)(B) requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP. Agria violated the internal controls of Section 13(b)(2)(B) by failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that Agria's assets were recorded appropriately.

Findings

46. Based on the foregoing, the Commission finds that Agria violated Exchange Act Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Rules 10b-5, 12b-20, 13a-1, and 13a-16 thereunder.

Undertakings

Agria undertakes to:

47. Cooperate fully with the Commission's staff ("Staff") in any action or related judicial or administrative proceeding or investigation commenced by the Commission, or to which the Commission is a party, and subject to compliance with applicable law. In connection with such cooperation, Agria Corporation undertakes to:

i. Produce, without service of a notice or subpoena, any and all documents and other information requested by the Staff;

ii. Use its best efforts to cause its current and former employees to be interviewed by the Staff at such times as the Staff reasonably may direct; and

iii. Use its best efforts to cause its current and former employees to appear and testify truthfully and completely without service of a notice or subpoena as may be requested by the Staff.

In determining whether to accept the Offer, the Commission has considered these undertakings.

IV

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

Accordingly, pursuant to Exchange Act Section 21C it is hereby ORDERED that**:**

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, and 13a-16 thereunder.

B. Respondent shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of $3,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 or 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 Agria Corporation 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 Charles E. Cain, Chief, FCPA Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

C. 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.

Brent J. Fields
Secretary