

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

**SECURITIES ACT OF 1933**  
**Release No. 9237 / July 14, 2011**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3239 / July 14, 2011**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3303 / July 14, 2011**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14467**

**In the Matter of**

**Joseph F. Sofo, CPA,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 8A OF THE SECURITIES ACT  
OF 1933 AND SECTION 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
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 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Joseph F. Sofo (“Sofo” 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 him 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 203(k) of the Investment Advisers Act of 1940, 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<sup>1</sup> that:

#### Introduction

1. Sofu, age 49, is a certified public accountant who resides in Roslyn Heights, New York, and is licensed to practice in New York and the U.S. Virgin Islands. Sofu was the audit engagement partner for Kurcias, Jaffe & Co. LLP ("Kurcias Jaffe"), a Great Neck, New York accounting firm that conducted yearly audits of the North American Globex Fund, L.P. ("Fund" or "Globex Fund"). Sofu was responsible for the Fund's audits from 2001 through February 2009. These proceedings arise out of Sofu's false statements that the 2005 and 2006 year-end audits of the Globex Fund were conducted in accordance with Generally Accepted Auditing Standards ("GAAS") and that the financial statements had been presented in accordance with Generally Accepted Accounting Principles ("GAAP").

#### Findings

2. Northstar International Group, Inc. ("Northstar") is a Nevada corporation located in Oceanside, New York. It is the general partner and, thus, the investment adviser of the Globex Fund, a Nevada limited partnership and a pooled investment vehicle through which the assets of its limited partners are invested in a wide variety of securities and other financial instruments. The Globex Fund purported to keep the vast majority of its holdings in a related entity known as the North American Globex Group, Inc. ("Group" or "Globex Group"). James M. Peister founded Northstar in 2000 and has served as its president and CEO since then.

3. From 2003 until April 2009, Peister and Northstar intentionally overstated the assets of the Globex Fund, resulting in the dissemination of materially false and misleading asset values and performance figures to investors and prospective investors. Peister and Northstar concealed the true state of the Fund's finances by maintaining the Fund's assets in the Globex Group, and keeping the Group's bank and brokerage statements secret from the auditors. Peister controlled all of the operations and activities of the Globex Fund, Northstar and the Globex Group. Sofu was aware of Peister's control of these three entities, and that the Fund and the Group were related parties. Sofu also knew that the vast majority of the Fund's assets were purportedly held by the Globex Group. Neither Peister nor any of the entities mentioned here have been registered as an investment company or investment adviser with the Commission or any state.

4. During the relevant period, Peister and Northstar made claims of extraordinarily consistent returns and provided this information to investors and potential investors through reports, account statements, audited financial statements and internet hedge fund websites. These returns were based in large part on the assets the Fund claimed to hold in the Group.

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<sup>1</sup> 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.

5. The chart below shows the assets the Fund claimed were held at Globex Group and the verifiable approximate total investments actually held by the Group.

<b>Year</b>	<b>Assets the Fund Claimed to Hold at the Globex Group</b>	<b>Total Investment Assets Actually Held By the Globex Group</b>
2004	\$9,551,802 (85% of the Fund's total assets)	\$455,000
2005	\$10,842,625 (70% of the Fund's total assets)	\$65,000
2006	\$13,213,249 (89% of the Fund's total assets)	\$73,000
2007	\$14,564,461 (94% of the Fund's total assets)	\$6,000
2008	\$6,129,486 (87% of the Fund's total assets)	\$8,000

6. As a result of the overstatement of assets held at the Globex Group, investors received materially false account statements about the Globex Fund's value and performance. These inflated assets and performance calculations were reflected in audited year-end financial statements, among other places.

7. On the basis of this conduct, Peister and Northstar are the subject of an enforcement action by the Commission and have agreed to be enjoined from future violations of certain provisions of the securities laws.

8. Kurcias Jaffe was hired to audit the financial statements of the Globex Fund for the year ended December 31, 2001. They issued an unqualified opinion on that year and every year thereafter, ending with their opinion on the 2006 financial statements, which were issued on December 11, 2007. Before taking on this engagement, Kurcias Jaffe did not have any expertise in auditing hedge funds. In fact, the Globex Fund was its only hedge fund client.

9. As the engagement partner for Kurcias Jaffe, Sofo represented that the audits were conducted in accordance with GAAS, and was required, among other things, to ensure that the audit work was adequately performed and supported the conclusions presented in Kurcias Jaffe's audit opinions.

10. Kurcias Jaffe's audit opinions stated that the financial statements were prepared in conformity with GAAP and had been audited in accordance with GAAS. In fact, the Globex Fund's financial statements were not prepared in conformity with GAAP and had not been audited in accordance with GAAS. The audit reports were nonetheless provided to investors and prospective investors, and thus permitted Peister's and Northstar's fraud to continue.

### **Audit of the North American Globex Fund for 2004-05**

11. In conducting the audits in question, Sofo ignored the requirements of GAAS and relied on a flawed confirmation process. Though Sofo understood the Fund and the Group were related parties and that both entities were controlled by Peister, the audits in years 2004-2005 were quite limited. Sofo merely obtained representations from Peister, in his role as the Group's president, "confirming" the value of the Fund's assets being held by the Group. Sofo did no further work to verify these balances.

12. These confirmations were of almost no value from an audit perspective because GAAS requires that "[t]he auditor should direct the confirmation request to a *third party* who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26, *The Confirmation Process* (emphasis added). The confirmation requests to the Group were sent to a related party—in substance, the very same party—in clear contravention of GAAS.

13. Though Sofo understood that Peister controlled both the Fund and the Group and that the Fund and the Group were related parties, he accepted the assertions of Peister as the only audit evidence for the balance of the Fund's assets held by the Group. GAAS requires that "[a]fter identifying related party transactions, the auditor should apply the procedures . . . directed toward obtaining and evaluating sufficient appropriate audit evidence and should extend beyond inquiry of management." AU § 334.09, *Related Parties*. But relying solely on an assertion from the Fund management is precisely what Sofo did, without obtaining any other audit evidence.

14. For the 2004-05 audit, Sofo failed to exercise due care, appropriate professional skepticism, or obtain sufficient competent evidential matter. In the planning phases of the audit, Globex Group was identified as a fraud risk yet the additional steps listed in the audit workpapers for the 2005 audit to combat this risk were not taken.

15. The result was the Fund's audited financial statements were materially misstated. The statements for 2004 and 2005 show the balance in the "Due from North American Globex Group" line item to be \$9,551,802 for 2004 and \$10,842,625 for 2005. In reality, the actual verifiable investment assets held by the Group were about \$455,000 at the end of 2004 and \$65,000 at the end of 2005 — much less than what were reported in the audited statements.

### **Audit of the North American Globex Fund for 2005-06**

16. For the 2005-06 audit, Sofo again failed to exercise due care, appropriate professional skepticism, or to obtain sufficient competent evidential matter. Once again, in the planning phases of the audit, Globex Group was identified as a fraud risk yet the additional steps listed in the audit workpapers for the 2006 audit to combat this risk were not taken.

17. In 2006, Sofo changed his approach in form but not in substance as to the confirmation of the Fund's assets held at the Group. Sofo attempted to get confirmation of the Fund's balance held at the Group from the Group's accountant, who was also Peister's personal

accountant. Under GAAS, confirmation from the accountant did not constitute sufficient audit evidence because the accountant was not a third party as required by GAAS. AU § 330.26.

18. Still, Kurcias Jaffe staff first reached out to the accountant on May 2, 2007. After several exchanges between Kurcias Jaffe and the accountant spanning five months, Sofo had still not received what he considered to be a sufficient confirmation from the accountant.

19. On October 16, 2007 the accountant wrote with respect to the supposed \$13,213,249 balance due to the Fund from the Group: “The balance is correct based on statements provided to me by North American Globex Group. I have not audited nor reviewed this information and therefore cannot make any opinion on it.” Sofo was aware he could not rely on this statement as a confirmation.

20. On November 13, 2007, the accountant slightly revised his October 16 statement regarding the supposed \$13,213,249: “The balance is correct based on statements provided to me by North American Globex Group. These statements from [the Group] that I provide for [the Fund] are generated from the electronic online printout of the consolidated online brokerage statements provided by Technicom.” Sofo understood from Fund insiders that Technicom was an on-line consolidation of all the brokerage accounts at the Group and that the accountant had access to this. However, Technicom was not an on-line consolidation of all the brokerage accounts held at the Group. Regardless of what he was told, Sofo should have learned for himself what Technicom was, but he did not. Auditing guidance states that “the auditor should perform audit procedures in addition to the use of inquiry to obtain sufficient appropriate audit evidence.” AU § 326.35, *Audit Evidence*.

21. On November 15, 2007, Sofo emailed Peister and others stating that he wanted the year-end statements for the Group accounts that were holding the Fund’s assets. He also requested the contact information for the brokers of the accounts so he could get confirmation from them directly. Sofo noted that “[d]ue to the relationship between Globex Fund and Globex Group, as well as the fact that the majority of the Funds [sic] assets are held with the Group, these audit procedures are necessary in order for us to issue an audit opinion on the Fund.” However, Peister declined to give these items to Sofo, and Sofo did not pursue the matter further.

22. On December 11, 2007, the accountant sent Kurcias Jaffe a compilation report along with the Group’s balance sheet, which showed \$13,213,249 was due to the Fund. The accountant also sent a list of brokerage accounts with corresponding dollar figures that totaled \$13,213,249. Even though the accountant stated in his compilation report that “[a] compilation is . . . the representation of management” and that he did “not express an opinion or any other form of assurance on [the accompanying balance sheet],” Sofo was satisfied with this audit evidence, and that day issued an unqualified opinion of the financial statements for 2006 and 2005.

23. In the end the accountant’s “confirmation” was inadequate, and the compilation of the Group’s balance sheet the accountant prepared did not offer any audit assurance. In sum, Sofo failed to exercise due professional care, professional skepticism, and failed to obtain sufficient competent evidential matter to support Kurcias Jaffe’s unqualified audit opinions.

24. The result was the Fund's audited financial statements were materially misstated. The 2006 audited financial statements showed the balance in the "Investments held by North American Globex Group Inc." line item to be \$13,213,249 for 2006. In fact, the total verifiable investment assets actually held by the Group were approximately \$73,000 as of December 2006—much less than what was reported in the statements.

25. Sofo also allowed the Fund to make materially false representations in the footnotes to the 2006 financial statements. Note J of those statements stated, "NAGG [the Group] is not independently audited. However, our auditors have received confirmation from NAGG's independent accountant confirming NAGG's assets and liabilities as of December 31, 2006 and the changes in NAGG's net assets for the year ended December 31, 2006." Sofo allowed the language "independent accountant" and "confirmation" even though (1) the accountant was not independent of the Group, and (2) the accountant had not *confirmed* anything. Kurcias Jaffe did not receive a confirmation of the Group's assets and liabilities but a compilation, which explicitly offered no assurance to the reader of the financial statements.

26. Sofo also added an emphasis-of-a-matter paragraph to the unqualified audit opinion drawing attention to Note J. This action, in effect, gave the appearance that the information contained in Note J was particularly informative when in fact, the information was materially inaccurate.

27. Sofo was aware that the Fund's private placement memorandum, which names Sofo explicitly and which Kurcias Jaffe had a copy of in its audit workpapers, stated that the limited partners were supposed to receive a copy of the audited financial statements. Also, in at least one instance Sofo himself sent the 2006 audit opinion and audited financial statements to a limited partner.

28. As a result of the conduct described above, Sofo was a cause of Peister's and Northstar's violations of Sections 17(a)(2) and (3) of the Securities Act. Section 17(a)(2) of the Securities Act specifically prohibits any untrue statements of material fact or material omissions in the offer or sale of securities. Section 17(a)(3) of the Securities Act prohibits engaging in a course of business which operates as a fraud or deceit in the offer or sale of securities.

29. As a result of the conduct described above, Sofo was a cause of Peister's and Northstar's violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder which prohibits fraudulent conduct and makes it fraudulent, deceptive, or manipulative act, practice, or course of business for any investment adviser to a pooled investment vehicle to make false or misleading statements to investors or prospective investors in the pooled investment vehicle.

#### IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Respondent Sofo cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and (3) of the Securities Act, and pursuant to Section 203(k) of the Advisers Act, Respondent Sofo cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay disgorgement of \$4,521 and prejudgment interest of \$1,117 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Sofo as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and wire transfer, money order or check shall be sent to Thomas Sporkin, Chief of the Office of Market Intelligence, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5990.

By the Commission.

Elizabeth M. Murphy  
Secretary