



**Application to the Federal Trade Commission for
Herbalife Independent Compliance Auditor**

August 25, 2016

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Appendix A

A. Executive Summary

AlixPartners is a global consulting firm of over 1,600 professionals. The firm has significant experience in court-ordered/regulator-mandated monitorships, examinerships and similar types of roles. In these types of engagements, we leverage the experience of our accounting and auditing professionals and data technologists to report our findings to interested parties.

Harvey R. Kelly, a Certified Public Accountant, would be the Independent Compliance Auditor (“ICA”) for Herbalife. Mr. Kelly has more than 30 years of professional experience and is frequently appointed to similar roles. He leads AlixPartners’ Global Financial Advisory Services practice, which specializes in forensic investigation, litigation consulting, and auditing.

Mr. Kelly has assembled a team of highly qualified AlixPartners’ professionals with significant experience in compliance accounting and auditing, as well as data technology and analytics.

Mr. Kelly and AlixPartners have significant experience with long-term engagements as well as managing multiple large engagements at the same time. Mr. Kelly is committed to fulfilling the ICA role for the duration of the project.

Based on our experience with similar engagements, we have developed specific procedures to efficiently evaluate Herbalife’s compliance with the *Stipulated Order For Permanent Injunction And Monetary Judgment* (the “Order”). During the conduct of our engagements, we perform our responsibilities while remaining sensitive to the needs of the various stakeholders.

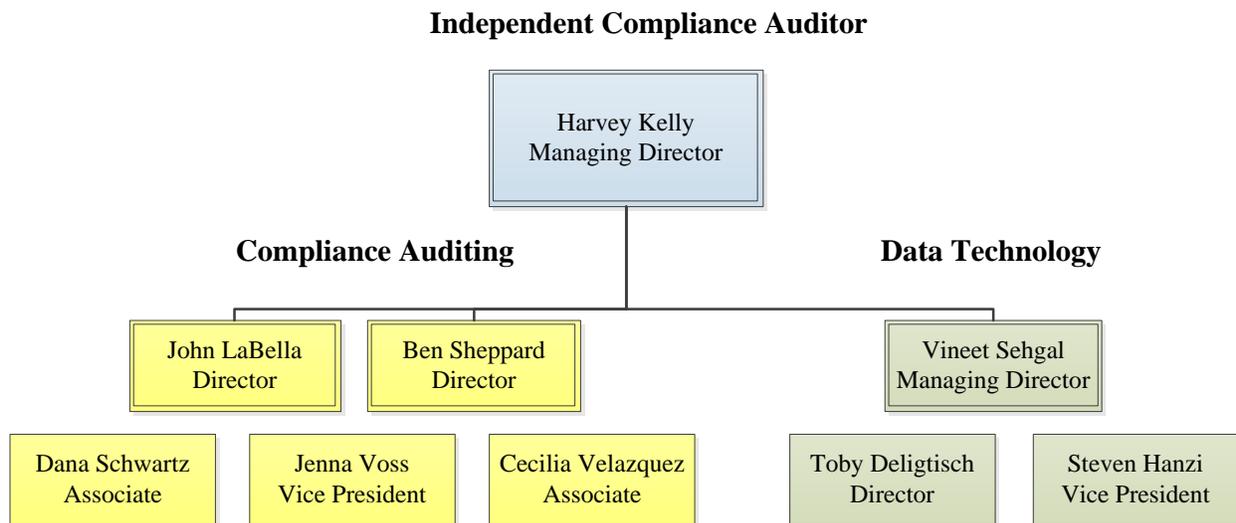
We have performed a relationship check and did not identify any matters that are actual conflicts or could be perceived as actual conflicts.

We have reviewed and considered the *Request for Application to Serve as Independent Compliance Auditor for Herbalife* (“RFA”), the Order, the *Complaint for Permanent Injunction and Other Equitable Relief*, Herbalife’s recent Securities and Exchange Commission (“SEC”) filings and investor presentations, and has assembled a team prepared to undertake this important project. Our personnel, qualifications, experience, references, proposed activities and estimated fees and expenses follow.

B. Personnel

We will perform the procedures detailed in Section E below utilizing a team comprised of compliance auditors and data technologists. The compliance auditors will conduct interviews and will focus on policy review, compliance testing, incident review and report writing. The data technologists will manage and analyze the data provided by Herbalife and support the compliance auditors (e.g. develop database queries, build recalculation models, evaluate data quality, etc.)

Based on our current understanding of the Order, we have assembled the following team to perform the procedures detailed in Section E below:



Consultant Title Years of Experience Years with AlixPartners	Relevant Background Engagement Responsibility
Harvey Kelly, CPA Managing Director 30 years 13 years	<p>Harvey Kelly leads AlixPartners' Global Financial Advisory Services practice. He specializes in forensic investigations, litigation consulting, and auditing. Mr. Kelly has represented boards of directors, investors, creditors, and federal regulators in financial investigations. He has served as a Monitor, Independent Consultant and/or Independent Examiner in numerous matters.</p> <p>Mr. Kelly will be the Independent Compliance Auditor to assess and report on Herbalife's compliance with and implementation of the Order.</p>
Vineet Sehgal Managing Director 18 years 9 years	<p>Vineet Sehgal has extensive experience in managing high profile corporate litigation and investigation projects. He specializes in using analytics to create transparency and drive strategic decision making in high impact matters. He has experience in database planning and design, data analytics, systems analysis and reporting, financial data modeling and analysis.</p> <p>Mr. Sehgal will support Mr. Kelly and will lead the Data Technology workstream.</p>
John LaBella, CPA Director 24 years 11 years	<p>John LaBella, a former Big Four consultant, has significant experience in financial reporting and has led forensic accounting investigations and litigation support engagements. Among other assignments, Mr. LaBella was appointed by the California Attorney General to analyze financial records of a business following an injunction arising out of consumer complaints.</p> <p>Mr. LaBella, who is based in San Francisco, will support Mr. Kelly and co-lead the Compliance Auditing workstream.</p>
Ben Sheppard, CPA Director 28 years 9 years	<p>Ben Sheppard, a former Big Four auditor, has worked on multiple litigation support, forensic investigation, and valuation assignments. Previously, Mr. Sheppard was the accounting director for a consumer products company where he was responsible for inventory controls and revenue analysis. He has led or conducted hundreds of compliance audits.</p> <p>Mr. Sheppard, who is based in Los Angeles, will support Mr. Kelly and co-lead the Compliance Auditing workstream.</p>
Toby Deligtisch Director 26 years 7 years	<p>Toby Deligtisch has a broad range of skills and technical expertise in .NET applications, SQL databases, and financial modeling. He has led numerous data analytics engagements related to various compliance issues.</p> <p>Mr. Deligtisch will support Mr. Sehgal with the Data Technology workstream.</p>
Steven Hanzi Vice President 9 years 9 years	<p>Steven Hanzi has experience in regulatory investigations and litigation involving complex data analytics. He has coordinated data extractions, defined project scope and deadlines, as well as identified challenges and risks. He has experience in Oracle and SQL databases.</p> <p>Mr. Hanzi will support Mr. Sehgal with the Data Technology workstream.</p>

Consultant Title Years of Experience Years with AlixPartners	Relevant Background Engagement Responsibility
Jenna Voss, CPA Vice President 10 years 2 years	<p>Jenna Voss, a former Big Four consultant, has experience conducting global forensic, anti-corruption, litigation, restructuring, due diligence, and project management engagements for clients in a variety of industries, including healthcare, manufacturing, retail, and financial services.</p> <p>Ms. Voss will support Messrs. LaBella and Sheppard with the Compliance Auditing workstream.</p>
Dana Schwartz, CPA Associate 6 years 1 year	<p>Dana Schwartz, a former Big Four auditor, has been involved in a variety of engagements primarily in investigations and compliance monitoring.</p> <p>Ms. Schwartz will support Messrs. LaBella and Sheppard with the Compliance Auditing workstream.</p>
Cecilia Velazquez, CPA Associate 5 years 2 years	<p>Cecilia Velazquez, a former Big Four auditor, has assisted with several international investigations. She has provided project management support to finance, IT, and operations departments for compliance-related initiatives and fixed asset software implementation</p> <p>Ms. Velazquez, will support Messrs. LaBella and Sheppard with the Compliance Auditing workstream.</p>

All of the professionals listed above are available to work on the ICA team, without restrictions.

C. Qualifications

Harvey Kelly - Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Monitor appointed by N.Y. State Department of Financial Services (“NY DFS”) for a European bank regarding Bank Secrecy Act, Anti-Money Laundering and Office of Foreign Assets Control processes.
- Led forensic/technology team assisting a NY DFS-appointed Monitor at a Switzerland-based bank.
- Independent Examiner for six “Category 2” Department of Justice (“DOJ”) Program participants.
- Appointed as an Independent Consultant pursuant to a settlement agreement between the SEC and an auditing firm.
- Led multiple forensic/technology teams assisting court-appointed Independent Examiners in connection with deferred prosecution agreements with the DOJ.
- Financial advisor to SEC appointed receiver in Bernard L. Madoff matter.
- Appointed as an Independent Consultant pursuant to a settlement agreement between the SEC and an SEC registrant.
- Led forensic team performing quarterly monitoring role pursuant to a settlement agreement between the SEC and an SEC registrant.

Statistical and data analysis, information technology and data management

- Led numerous teams, which performed complex data analyses in various forensic investigations, litigation consulting matters, independent audits, and court-ordered/regulator-mandated monitorships and examinerships.

Preparing for and participating in court proceedings and report writing

Has served as an expert witness in various engagements, including the following during the previous 4 years:

- LRGP III, LLC and SLRA Inc. v. CPP Investment Board Real Estate Holdings, Inc. et al., 2015 (District Court, Southern District of New York) – report
- General Electric Company and Subsidiaries v. United States of America, 2015 (District Court, Connecticut) – report, deposition testimony
- Comcast MO Group, Inc. v. Qwest Communications International, Inc., 2014 (District Court, City and County of Denver, CO) – report
- Tradewinds Airlines, Inc. et al. v. George Soros and Pernendu Chatterjee, et al., 2014 (District Court, Southern District of New York) – report
- Brookfield Asset Management et al. v. AIG Financial Products Corp. and American International Group, Inc. 2013 (District Court, Southern District of New York) - report
- In re: Molex, Inc., 2013 (SEC investigation) – deposition testimony
- In re: Baltimore City Asbestos Litigation, Vincent Auffarth, et al. v. ACandS Inc. et al., 2013 (Circuit Court for Baltimore City) – deposition testimony

- United States of America v. Todd S. Farha et al., 2013 (District Court, Middle District of Florida) – court testimony
- In re: Computer Sciences Corporation Securities Litigation, 2013 (District Court, Eastern District of Virginia) – report, deposition testimony
- Eisai Inc. v. sanofi-aventis U.S. LLC, et al., 2013 (District Court of New Jersey) – report, deposition testimony
- Neil F. Luria, as Trustee to the Taylor, Bean & Whitaker Plan Trust v. Banc of America Securities LLC, 2012 (Bankr. Middle District of Florida) – report
- Neil F. Luria, as Trustee to the Taylor, Bean & Whitaker Plan Trust v. Bank of America, N.A., 2012 (Bankr. Middle District of Florida) – report
- In re: Baltimore City Asbestos Litigation, Andrew Dean, et al. v. ACandS, Inc., et al., 2012 (Circuit Court for Baltimore City) – deposition testimony, court testimony
- Rubin Schron, et al. v. Leonard Grunstein et al., 2010, 2012 (Supreme Court, State of New York) – report, deposition testimony, court testimony
- In re: Baltimore City Asbestos Litigation, Deborah Blackwell et al. v. ACandS, Inc., et al., 2012 (Circuit Court for Baltimore City) – deposition testimony
- Transatlantic Holdings, Inc. et al. v. American International Group, Inc. et al., 2011 (Arbitration) – report, deposition testimony
- Securities and Exchange Commission v. David Ronald Allen, China Voice Holding Corp. et al., 2011 (District Court, Northern District of Texas) – report
- United States of America, et al. v. Wyeth, 2011 (District Court of Massachusetts) – report, deposition testimony
- Mizuho Bank, Ltd. v. Molex Japan Co., Ltd., 2011 (Tokyo District Court, Civil 50th Division) – report
- Wells Fargo & Company, et al. v. United States of America, 2011 (District Court of Minnesota) – report, court testimony
- Wade Tucker, et al. derivatively, for the benefit of and on behalf of HealthSouth Corporation v. Ernst & Young LLP, 2010 (Arbitration) – arbitration testimony
- In re: G-I Holdings, Inc., et al., 2009, 2005 (District Court of New Jersey) – report, deposition testimony, court testimony
- In re: Nayman Lawson, et al. v. ACandS, Inc., et al., 2008 (Circuit Court for Baltimore City) – deposition testimony
- In re: HealthSouth Securities Litigation, 2008 (District Court, Northern District of Alabama) – deposition testimony
- Donald Carroll et al. v. ACandS, Inc. et al., 2007 (Circuit Court for Baltimore City) – deposition testimony
- Unzipped Apparel, LLC et al. v. Sweet Sportswear, LLC et al., 2006-2007 (Superior Court, State of California, County of Los Angeles) – deposition testimony, court testimony
- United States, et al. v. Jacob Alexander, 2006 (District Court, Eastern District of New York) – affidavit
- Robert J. O'Connell v. Massachusetts Mutual Life Insurance Company, 2006 (Arbitration) – arbitration testimony

Vineet Sehgal - Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Currently serving as the lead for liquidation for the Trustee of Bernard L. Madoff Investment Securities. In this capacity he collaborates with Securities Investor Protection Corporation (“SIPC”), SEC, Federal Bureau of Investigation (“FBI”), and the U.S. Attorney.
- Serving as the Court Appointed Settlement Administrator for the Shapiro-Hill Class Action settlement with JPMorganChase. Responsible for developing and executing the claims process and distribution of over \$215 million to claimants.

Statistical and data analysis, information technology and data management

- Serving as the technical lead for a sanctions compliance lookback review for a global financial institution. The investigation encompasses millions of transactions, complex systems, and multiple branches across the globe.
- Served as the technical lead assisting the SEC Monitor in reviewing BSA/AML/OFAC Compliance Program policies and procedures for a global financial institution.
- Served as the technical lead in a large investigation related to four year transaction look-back for a global financial institution.
- Serving as the lead for liquidation of Bernard L. Madoff Investment Securities. Managed a large team working on complex data sets to analyze trade activity, support recovery and distribution of billions of dollars in investor claims.
- Served as the technical lead for a SEC investigation into a large European bank. This involved scope development, applications development, consolidating disparate data sources, analyzing and reporting results.

Preparing for and participating in court proceedings and report writing

- Issued multiple declarations in federal court regarding the Liquidation of Bernard L. Madoff Investment Securities.
- Deposed as a fact witness representing the Madoff Trustee in the liquidation.
- Issued declarations in federal court regarding Shapiro-Hill case.

John LaBella - Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Appointed by the California Attorney General's office, in conjunction with the California Public Utilities Commission, to certify to calculations of financial activity in compliance with agreed upon methodology pursuant to a stipulation agreement between State and calling card business.
- Served for two years as an independent facilitator for a publicly-traded \$1 billion consumer products company for purposes of establishing quarterly inventory values. The process was a remedial compliance measure following the company's restatement and SEC investigation.
- Served as lead auditor for a government and privately funded social services organization and other businesses.

Statistical and data analysis, information technology and data management

- Led process development and analysis of transaction level detail consisting of millions of lines of journal entry data covering multiple years to identify unusual transactions and other specified criteria.
- Managed a project to analyze multiple year historical payments against individual balances to retroactively rebuild accounts receivable balances for a public company using a transaction database.

Preparing for and participating in court proceedings and report writing

- MUFG Union Bank, N.A., v. Robert Brower, Sr., 2016 (Bankr., Northern District of California, San Francisco Division) – declaration
- Confidential matter, 2016 (District Court, Travis County, Texas) – report
- People of the State of California, v. Total Call International, Inc., 2009 (Superior Court of California, County of San Francisco) – declaration
- Ferdowsali v. Massoumi, 2009 (Superior Court of California, County of Alameda) – declaration
- Steven Mayer v. Bella Vista, 2007 (Judicial Arbitration and Mediation Service, San Francisco) – deposition testimony, arbitration proceedings testimony
- Prepared reports with respect to a regulated California utility company related to analysis of cost allocations between rate base and non-rate base cost pools.

Ben Sheppard - Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Served as court-appointed independent accounting examiner in contract dispute to apportion profits from \$3B in sales.
- Performed/supervised over 200 royalty audits and contract compliance investigations around the world.
- Author of the chapter “Royalty Audits and Contract Compliance Investigations,” published by Wiley and Sons in its Litigation Services Handbook (Supplement to Fifth Edition).

Statistical and data analysis, information technology and data management

- B.B.A. in Management Information Systems
- Led user implementation of inventory control and revenue reporting system.

Preparing for and participating in court proceedings and report writing

- Hiroshi Horiike v. Humane Society of United States, 2016 (District Court, Central District of California - Western Division) – report
- Tessera v. UTAC-Taiwan, 2015 (District Court, Northern District of California - San Jose Division) – report, deposition testimony
- Jon Van Dyke v. Lionsgate Entertainment and Friends Media, 2014 (District Court, Central District of California - Southern Division) – report
- Small Ventures v. Rizvi Traverse Management, 2014 (District Court, Southern District Texas - Houston Division) – report, deposition testimony
- Latele Television v. Telemundo, 2014 (District Court, Southern District of Florida) – report, deposition testimony
- George v. Amster, 2014 (California Superior Court - Santa Ana) – deposition testimony, court testimony
- West and Zampella v. Activision Publishing, 2012 (California Superior Court - Los Angeles Civil West) – report (confidential), deposition testimony
- Starz Enterprise v. DISH Network, 2012 (Colorado State Court - Castle Rock) – report, deposition testimony
- Quest v. DIRECTV, 2011 (District Court, Central District of California - Southern Division) – report, deposition testimony
- Roche v. Marshmallow Skins, 2011 (California Superior Court - Los Angeles) – deposition testimony, court testimony
- Don Johnson Productions v. Rysher, 2010 (California Superior Court - Los Angeles) – deposition testimony, court testimony
- Romanov v. Livney, 2009 (California Superior Court - Los Angeles) – deposition testimony, court testimony
- Forsyth v. Avaruha, 2009 (California Superior Court - Santa Ana) – deposition testimony, court testimony

- City of Mountain View v. Daoro Zydel and Holland, 2007 (California Superior Court - San Francisco) – report, deposition testimony, court testimony
- Eastern Broadcasting America v. Firelink, 2007 (California Superior Court - Pasadena) – deposition testimony, court testimony
- In re: 1988 Burton Lancaster Trust, 2006 (California Superior Court - Los Angeles) – report, deposition testimony, court testimony
- Shoreline Amphitheatre Partners v. City of Mountain View, 2006 (California Superior Court - San Francisco) – deposition testimony

Toby Deligtisch – Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Assisted monitor at national brokerage firm regarding data issues.

Statistical and data analysis, information technology and data management

- Currently leading data work streams on global internal compliance investigation at major international bank, including creation of extensive custom transactional analysis models and reporting tools.
- Worked on creation of transaction review software.
- Led development of a complex model for review and analysis of transactional data as part of multi-jurisdictional tax investigation.
- Led the reverse engineering of a national automated mortgage underwriting system in a litigation.
- Led data analytics team managing several facets of the restructuring of General Motors.

Preparing for and participating in court proceedings and report writing

- Served as a testifying expert in court on matters relating to data productions, relational databases and data extraction and normalization.

Steven Hanzi – Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Provided data analytics support to a U.S. brokerage firm subject to SEC oversight from a Monitor.

Statistical and data analysis, information technology and data management

- Performed extensive analytics of systems, accounts, transactions, and Know Your Customer (KYC) documentation.
- Developed cost reduction through process automation using statistical sampling along with in-depth mapping techniques.
- Structured data integrity checks and pre-processing logic and performed a comparative analysis of the results.
- Structured and interpreted data from the client to be used to check SAR information, as well as, to present the results of transaction scenarios to identify other potential SAR filings

Jenna Voss – Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Analyzed a financial services company's policies and procedures for compliance with anti-money laundering regulations.
- Advised the branch of an international client in the medical devices industry on the development and implementation of its compliance program, including: identification of high risk customers and vendors, adherence to trade compliance regulations, and enhancements to the client's internal control environment. Compliance program was implemented as a result of a Monitorship resulting from agreements the Company entered into with the DOJ and SEC.
- Devised innovative model to recalculate multiple categories of fees assessed to the customers of a client in the financial services sector over a five-year period. Model calculated over one million dollars in erroneous fees that the client refunded to customers in order to avoid regulatory penalties.

Statistical and data analysis, information technology and data management

- Managed an engagement team in performing journal entry analysis, general ledger data analytics, and electronic evidence review to uncover a CFO's multi-year embezzlement.

Dana Schwartz – Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Analyzed a financial services company’s policies and procedures for compliance with anti-money laundering regulations.
- Evaluated the proper accounting under GAAP for Investment Management and Advisory Fees and Transaction and Advisory Fees PE funds specializing in the secondary real estate market.
- Reviewed various information including, emails, accounting records, transaction documents, and public filings to uncover potential accounting irregularities in an Audit Committee investigation.
- Performed audits of Fortune 100 SEC registrants, primarily focused in the financial services and healthcare industries with a focus on technical accounting issues.

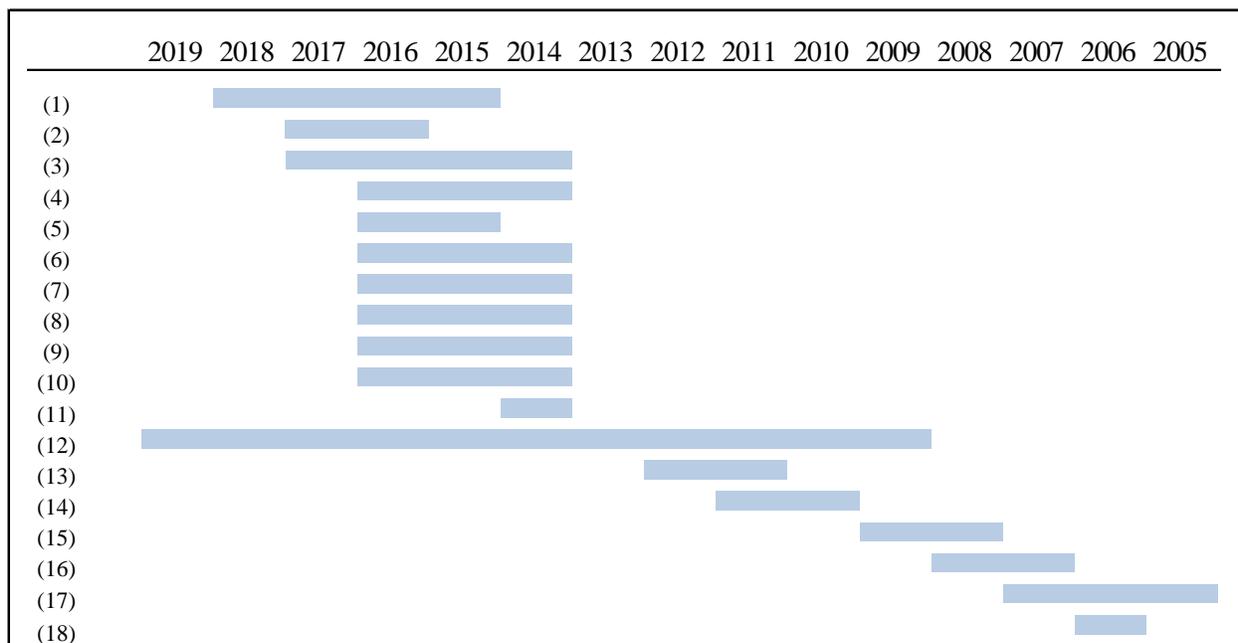
Cecilia Velazquez – Qualifications

Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations, including experience in monitoring settlements, consent decrees, or court orders

- Managed audits of SEC registrants and other entities in the healthcare, banking and financial services, consumer products, oil and gas, forest products, and airline industries.
- Assessed distributor contracts and expenses to evaluate compliance with FCPA accounting transparency requirements.
- Performed a Suspicious Activity Report (SAR) look-back for a broker-dealer and identified unusual patterns of transactions that merited a SAR filing and went unreported.
- Assessed firm compliance with Know Your Customer (KYC) procedures in place to verify the identities of individuals in an anti-money laundering (AML) investigation.

D. Prior Experience and References

AlixPartners has significant experience in court-ordered/regulator-mandated monitorships, examinerships and similar types of roles. In certain cases, AlixPartners was appointed directly or approved by a regulator. In other cases, AlixPartners was engaged in a consulting role to the regulator’s appointee.



	Start	End	Project	Members
(1)	2015	ongoing	NY State-appointed Monitor	HK, JV, DS
(2)	2016	ongoing	Compliance Consultant to SEC-appointed Consultant	VS, CV
(3)	2014	ongoing	Compliance Consultant to NY State-appointed Monitor	HK
(4)	2014	2016	Compliance Consultant to DOJ-appointed Monitor	JV, CV
(5)	2015	2016	Audit Committee monitor related to SEC settlement	HK
(6) - (11)	2014	2016	Independent Examiner for DOJ Program	HK
(12)	2009	2019	Financial Advisor for Madoff Trustee	VS
(13)	2011	2012	Court-appointed Independent Accounting Examiner	BS
(14)	2010	2011	Independent Consultant related to SEC settlement	HK
(15)	2008	2009	Forensic Accountant for Madoff Receiver	HK
(16)	2007	2008	CA Attorney General-appointed Accountant	JL
(17)	2005	2007	Consultant to DOJ-appointed Independent Examiner	HK
(18)	2006	2006	Independent Consultant related to SEC settlement	HK

Select References

The following individuals can discuss our capabilities, professionalism, and experience in court-ordered/regulator-mandated monitorships, examinerships and similar types of roles, as well as their experiences with AlixPartners' completing projects within anticipated deadlines and budget:

- **Neil Barofsky**
Partner - Jenner & Block LLP
Former SIGTARP
Former Assistant U.S. Attorney

- **Shelby du Pasquier**
Partner - Lenz & Staehelin

- **Irving Picard**
Partner - BakerHostetler
Former U.S. Trustee
Former SEC General Counsel

- **Harvey Pitt**
CEO and Managing Director - Kalorama Partners, LLC
Former SEC Chairman

- **Margaret Reiter**
Former Supervising Deputy Attorney General for the State of California
Former Los Angeles County Consumer Affairs Department Investigator

- **Lee Richards**
Partner - Richards Kibbe & Orbe LLP
Former Assistant U.S. Attorney

- **Lawrence West**
Founder - SEC Whistleblower Consultants
Retired Partner - Latham & Watkins LLP

See Appendix A for confidential contact information.

AlixPartners' work product that is similar to the reports required for this project is confidential.

E. Proposed Activities

When we commence the engagement, we would conduct an initial assessment at the Los Angeles office, meeting with management and other relevant personnel to gain an understanding of Herbalife's processes, IT systems, and other sources of information. During that phase, we would preliminarily evaluate Herbalife's capability to produce the information needed for AlixPartners to perform the necessary testing, make a formal request for the necessary information, and coordinate with Herbalife on the delivery of the requested information.

Based on our experience in similar types of engagements, we propose to conduct the compliance procedures quarterly, after Herbalife has reported its financial results for a quarter. This timing would enable Herbalife personnel to devote the proper attention and focus to this process, and thus promote efficiency. Each quarter, both our compliance auditors and data technologists would meet with Herbalife personnel to gain an understanding of how they are complying with the Order and assess any changes in the business, including policies, processes, systems and investor guidance. For example, we would assess how new systems or changes to existing systems facilitate compliance with the order to collect retail sales information. In addition, we would review other materials to gain insight into the business, including public filings, investor presentations and marketing collateral.

For each of the questions listed in the RFA (repeated below in bold italics), we have described the activities we propose to undertake (collectively the "Procedures"). To gain efficiency, in certain cases, we have designed Procedures to address multiple questions contained in the RFA.

Retail Sales

- I. Is Herbalife collecting all required retail sales information? [Order § I.C]***
- A. Obtain from Herbalife, a trial balance which underlies its most recently reported financial quarter.¹
 - B. Obtain from Herbalife databases² of (1) all "U.S. Sales" made by Herbalife and (2) all "U.S. Retail Sales" made by Business Opportunity Participants (or "Participants" as defined in the Order) during the quarter.³
 - C. Reconcile the sales in the database to Herbalife's reported U.S. sales for the quarter, as reflected in its Form 10-Q, filed with the SEC.
 - D. Perform data quality analysis.⁴
 - E. Perform data analytics to verify that profitable retail sales by Business Opportunity Participants listed in the database are in fact profitable.
 - F. Use statistical methods to select a sample of profitable retail sale transactions by Business Opportunity Participants. For each selected transaction:

¹ The Trial Balance will be used for various reconciliations.

² "Database" herein refers to a database or spreadsheet file.

³ In addition, in the first quarter of our engagement, we would request information for the previous three quarters.

⁴ The purpose of the data quality analysis is to determine if there is blank, missing, incomplete or unusual information in Herbalife's records.

- i. Determine whether Herbalife’s records reflect the required information (i.e., method of payment, products and quantities sold, date, price paid by the purchaser, first and last name of the purchaser, contact information for the purchaser, including at least two of the following: telephone number, address or e-mail address and if applicable, paper receipts with signatures);
- ii. Review supporting documentation (e.g. systems information, sales information provided by Business Opportunity Participants);
- iii. Assess the apparent validity of the information and consider whether additional forensic methods are necessary; for example perform background searches to confirm that the customer is a real person.

II. *Is Herbalife accurately calculating profitable retail sales in a downline? [Order § I.A.1]*

- A. Obtain from Herbalife a Database of “Multi-Level Compensation paid to Participants” during the quarter, as well as underlying supporting data.
- B. Through discussions with Herbalife personnel, obtain an understanding of how Business Opportunity Participants are linked to their downlines within the data.
- C. Reconcile the information to Herbalife’s quarterly reported financial information.
- D. Reconcile the information to the database of all “U.S. Retail Sales” in Procedure I. above.
- E. Perform data quality analysis.
- F. Recalculate the profitable retail sales; compare recalculated amount to Herbalife’s recorded amount and investigate any material variance.
- G. Select a targeted sample of Business Opportunity Participants from the schedule and test the validity of the information by reviewing supporting documentation.

III. *Is Herbalife adhering to the requirement that a participant’s claimed profitable retail sales cannot exceed that participant’s total product purchases minus his or her product designated for personal consumption? [Order § I.D.3]*

- A. In addition to procedures described in II. above, using data analytics, verify that for all participants listed in the schedule, profitable retail sales are limited to the total amount of Product purchased by the Participant less any amount designated at the time of purchase as being for the Participant’s own or household use.
- B. Perform analysis to determine if any Participants appear to have purchased unusually high product volumes.

IV. *Is Herbalife adequately monitoring profitable retail sales to ensure that they are genuine and in fact occurred as reported? [Order § I.D.1&2]*

- A. Obtain from Herbalife reports/results of audits performed to monitor Profitable Retail Sales and Preferred Customer Sales.
- B. Review and analyze the reports and underlying workpapers.
- C. Meet with the person responsible for the audit process and discuss the process of selecting Participants to audit and findings.
- D. If third-party auditors perform the audits:
 - i. Discuss with third-party auditors the audit process, including planning phase, any issues identified, and interactions with management;
 - ii. Assess the competency of the auditors;
 - iii. Obtain and review underlying workpapers, if necessary.

- E. Inquire with Herbalife what other procedures are performed to monitor profitable retail sales; review supporting documentation and consider further analysis, if necessary.

Preferred Customers

- V. ***Is Herbalife correctly differentiating between preferred customers and business opportunity participants, including by reclassifying preferred customers and business opportunity participants only upon their own written request or application made directly to Herbalife, and ensuring that preferred customers neither sell goods or services, nor recruit others into the program, nor receive multi-level compensation? [Order § I.B & Def. I]***
 - A. Obtain from Herbalife a Database of all “Preferred Customers” and a separate Database of all “Business Opportunity Participants” for all months during the quarter.
 - B. Perform data quality analysis.
 - C. Review the Database of “Multi-Level Compensation paid to Participants” (obtained in Procedure II. above) and confirm that the list does not include names from the Database of Preferred Customers to verify that Preferred Customers are not selling products and are not receiving multi-level compensation.
 - D. Use statistical methods to select a sample of Preferred Customers; verify that each sampled participant has affirmatively elected to be classified as a Preferred Customer by reviewing supporting documents provided by Herbalife.
 - E. Compare the Database of Preferred Customers and the Database of Business Opportunity Participants; identify and test changes since the prior quarter:
 - i. For any changes (e.g. Preferred Customer who change to a Business Opportunity Participant), obtain and review the approved written request;
 - ii. Discuss with management how Business Opportunity Participants and Preferred Customers make changes to their statuses and how changes are processed. Using targeted sampling, test that changes are processed accurately and timely.
- VI. ***Is Herbalife adhering to the requirement that a preferred customer who transitions to business opportunity participant may not receive or retain any benefit or status other than a continued discount on product for personal consumption? [Order § I.B.3]***
 - A. This analysis will be performed as part of the Procedures described in II. and V. above.
- VII. ***Is Herbalife accurately calculating the preferred customer sales of a participant and in the participant’s downline? [Order § I.A.1]***
 - A. This analysis will be performed as part of the Procedures described in II. above.
- VIII. ***Is Herbalife adequately monitoring sales to preferred customers to ensure that they are genuine? [Order § I.D.2]***
 - A. This analysis will be performed as part of the Procedures described in IV. above.

Personal Consumption by Business Opportunity Participants

- IX. ***Is Herbalife accurately calculating rewardable personal consumption in a downline according to both the designation requirement and individual monthly limit? [Order § I.E]***
 - A. Obtain from Herbalife a Database by month of all U.S. Sales to Business Opportunity Participants during the quarter (may be the same “U.S. Sales” Database requested in Procedure

- I. above), which indicates purchases for personal consumption by Business Opportunity Participants.
 - B. Reconcile the information to Herbalife’s quarterly reported financial information.
 - C. Perform data quality analysis.
 - D. Review the schedule, and using data queries and analytics to verify that the rewardable personal consumption for each Business Opportunity Participant does not exceed the limit defined in Order § I.E.
 - E. Select a targeted sample of participants from the Database and test the validity of the information by reviewing supporting documentation obtained from Herbalife.
 - F. Using data queries and analytics, verify that the Rewardable Personal Consumption transactions included in a Participant’s Rewardable Transactions are limited, such that no more than one-third of the total value of the Participant’s Multi-Level Compensation is attributable to or generated by such transactions (see also Procedure in X. below).
- X. ***Is Herbalife ensuring that product purchases that are counted as rewardable personal consumption are in fact being purchased for the participant’s own or household use? [Order § I.E & Def. O]***
- A. Discuss with Herbalife the procedures it performs to ensure rewardable personal consumption transactions are actually purchased for the participant’s own or household use; review supporting documentation and consider further analysis, if necessary.

Paying Multi-Level Compensation

- XI. ***Is Herbalife paying multi-level compensation on retail sales only when retail sales information has been collected and reflects that the sale was profitable? [Order § I.A & Def. M]***
- A. This analysis will be performed as part of the Procedures described in II. above.
- XII. ***Is Herbalife limiting the multi-level compensation paid for consumption by business opportunity participants in a downline based on the relevant volume of retail sales and preferred customer sales? [Order § I.A.1]***
- A. This analysis will be performed as part of the Procedures described in II. above.
- XIII. ***Is Herbalife paying multi-level compensation for rewardable transactions during the same period only, with the sole exception being a three-month “look-back” for new business opportunity participants during their first six months in that status? [Order § I.A.1]***
- A. This analysis will be performed as part of the Procedures described in II. above.
- XIV. ***Is Herbalife complying with the prohibition against paying multi-level compensation to a participant who has not taken and successfully completed a training course that focused on required topics? [Order § I.H]***
- A. Using the Database of Business Opportunity Participants obtained in Procedure V, use statistical methods to select a sample of participants.
 - B. Obtain from Herbalife and review evidence that the selected Participant completed a training course.
 - C. Review the training course to determine whether the contents of training course satisfied the requirements set forth in the Order § I.H.

- XV. *Is Herbalife adhering to the prohibition against varying multi-level compensation based on non-rewardable transactions? [Order § I.A.2]***
- A. In addition to the Procedures described in II. above, use data queries and analytics to verify that transactions used in calculating the Multi-Level Compensation include only Rewardable Transactions.
- XVI. *Is Herbalife adhering to the prohibition against varying aspects of multi-level compensation based on the identity of the purchaser? [Order § I.A.3]***
- A. In addition to the Procedures described in II. and XV. above, use data queries and analytics to verify that each Rewardable Transaction has the same compensation value for each purchaser in calculating the Multi-Level Compensation.
- XVII. *If business opportunity participants must meet any thresholds related to multi-level compensation, is Herbalife adhering to the requirement that such thresholds may be met exclusively through profitable retail sales and preferred customer sales? [Order § I.F.2]***
- A. In addition to the Procedures described in II. and XV. above, use data queries and analytics to verify that transactions used in calculating Multi-Level Compensation include only Profitable Retail Sales and Sales to Preferred Customers, and exclude purchases of initial start-up packages.
- XVIII. *Is Herbalife complying with the prohibition against paying a “headhunter fee”? [Order § I.A.5]***
- A. Obtain from Herbalife a Database of all payments made during the quarter.
- B. Reconcile the information to Herbalife’s quarterly reported financial information and other information/Databases already received and tested, including “Multi-Level Compensation paid to Participants.”
- C. Perform data quality analysis.
- D. Use statistical methods to select a sample of payments and supporting documentation and verify that no payments were made solely for enrolling or recruiting a Participant or a Preferred Customer into the Program.
- XIX. *Is Herbalife complying with the prohibition against paying multi-level compensation based on purchase of a start-up package? [Order § I.F.1]***
- A. This analysis will be performed as part of the Procedures described in XVII. above.

Annual U.S. Multi-Level Compensation

- XX. *Is Herbalife accurately calculating net rewardable sales and total net sales, and limiting the sum of multi-level compensation payments if so required? [Order § I.A.4]***
- A. Calculate the ratio of Multi-Level Compensation payments to Net Rewardable Sales, and verify that it does not exceed 41.75% for any fiscal year, if the total of Net Rewardable Sales is less than 80% of Total Net Sales.

Limitations on Leased or Purchased Business Locations

- XXI. *Is Herbalife adequately enforcing the prohibition against participants leasing or purchasing a physical location unless they have met all relevant requirements? [Order § I.I]***
- A. Discuss with Herbalife the procedures it will use to enforce the prohibition against Participants leasing or purchasing a physical location unless they have met all relevant requirements.
 - i. Obtain and review relevant supporting documentation.
 - B. Determine whether Herbalife maintains or will maintain a Database of Participants that have met the requirements to lease or purchase a physical location.
 - i. If a Database exists, develop a targeted sample of Participants that have recently (within the last quarter) met the requirements for leasing or purchasing a physical location.
 - ii. Review evidence that the Participant completed a training course that was in accordance with the Order § I.I.1.b.;
 - iii. Obtain and review the Participant's written business plan and confirm that it includes all information as stated in Order § I.I.1.c.
 - C. Develop queries from previously obtained databases to identify Participants who had not met the requirements for leasing or purchasing a physical location.
 - i. Use statistical methods to select a sample of transactions to test;
 - ii. For each sampled transaction, verify that Herbalife has evidence which demonstrates that any Business Opportunity Participant that has not met the requirements for leasing or owning a physical location has acknowledged that prohibition.

Refund Policies

There are no questions in the RFA relating to Refund Policies. However, there are requirements in the Order relating to such policies. Therefore, we have developed procedures for testing compliance with refund policies set forth in the Order which we would perform if requested.

- A. Inquire with Herbalife the refund process; review supporting documentation and consider further analysis, if necessary.
- B. Obtain from Herbalife a Database of all refund requests during the quarter.
- C. Perform data quality analysis.
- D. Use statistical methods to select a sample of transactions to test that refunds are issued and Herbalife paid for shipping cost associated with the return.
- E. Review the following to determine whether the return policy is clear and conspicuous:
 - a. Product invoice and/or receipt sent to participants/customers
 - b. Herbalife's website
 - c. Application for Business Opportunity Participants to join the Program
 - d. Booklets, brochures, or similar printed materials promoting the Program
 - e. Within the Training materials
- F. Inquire with Herbalife other processes of communicating to Participants their right to return; review supporting documentation and consider further analysis, if necessary.

F. Potential Conflicts of Interest or Bias

AlixPartners has performed a relationship check and did not identify any matters that are actual conflicts or could be perceived as actual conflicts. In addition, we do not anticipate any potential or perceived conflicts of interest involving team members. No team member was a previous Herbalife board member, employee, or distributor, or a previous FTC Commissioner or Bureau Director.

G. Estimated Costs





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