

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3346 / December 29, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14681

In the Matter of

DANIEL JOSEPH SEBASTIAN,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Daniel Joseph Sebastian (“Respondent” or “Sebastian”).

II.

After an investigation, the Division of Enforcement alleges that:

1. From no later than January 2007 through July 2010, Sebastian held himself out to investors as the principal and manager of the operations of a purported private equity fund marketed under the names “Managed Capital Fund,” “Safe Harbor Private Equity Fund,” and “Preservation of Principal Fund” (collectively, the “Fund”). During this time period Sebastian was associated with an unregistered investment adviser, James Davis Risher. Until at least July 2010, Sebastian conducted business under the unregistered fictitious name of “Safe Harbor.” Sebastian also held a Series 6 license and operated an independent insurance agency in Florida until April 29, 2004.

2. On December 6, 2011, a final judgment was entered by consent against Sebastian, permanently enjoining him from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8

thereunder, in the civil action entitled Securities and Exchange Commission v. Daniel Joseph Sebastian, et al., Civil Action Number 6:11-cv-1440-Orl-18GJK, in the United States District Court for the Middle District of Florida.

3. The Commission's complaint alleged, among other things, that from no later than January 2007 through July 2010, Sebastian operated a Ponzi scheme, which raised approximately \$22 million for the Fund from more than 100 investors nationwide and in Canada. The complaint also alleged: (1) he knew or was extremely reckless in not knowing that the Fund's investment strategies were fictitious; (2) the returns in the account statements he provided to investors were false; (3) contrary to what Sebastian represented to investors, the Fund did not have audited financial statements; and (4) he misrepresented to investors that all money deposited into the Fund would be guaranteed against loss.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary