

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3817 / April 10, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15835

In the Matter of

ANTHONY J. DAVIAN,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTIONS
203(e) AND 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 Sections 203(e) and 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Anthony J. Davian (“Respondent” or “Davian”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Since July 2008, Davian has been the managing member of Davian Capital Advisors, LLC (“Davian Capital”), an unregistered investment adviser to several private investment funds formed by Davian, including Davian Capital L.P., Davian Capital L.P. II, Rubber City Gravity L.P., Rubber City Pure Alpha, L.P., Cleveland Gravity Fund L.P., Cleveland Pure Alpha Fund, L.P., Cleveland Pure Alpha II L.P., and Cleveland Precious Metals Fund, L.P. Davian, 34 years old, is a resident of Copley, Ohio.

B. ENTRY OF THE INJUNCTION

2. On March 24, 2014, a final judgment was entered by consent against Davian, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) 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. Anthony J. Davian, et al., Civil Action Number 5:13-CV-1762, in the United States District Court for the Northern District of Ohio.

3. The Commission’s complaint alleged that, since 2011, Davian raised at least \$1.5 million from investors for investment in several private funds managed by Davian Capital, provided investors with marketing materials containing fictitious returns and profits for the private funds, and misappropriated most of the money received from investors to pay for personal expenses.

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;

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

C. 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 of 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.

Jill M. Peterson
Assistant Secretary