

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4177 / August 17, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16760**

**In the Matter of**

**Bradford D. Szczecinski,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO 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 and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Bradford D. Szczecinski (“Szczecinski” 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, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to 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:

#### Summary

This proceeding arises out of a significant overstatement of assets under management ("AUM") and compliance failures by Ariston Wealth Management, L.P. ("Ariston"), an investment adviser formerly registered with the Commission. Ariston misstated in filings with the Commission that it had \$190 million in AUM in March 2012 when it had less than \$80 million in AUM. In addition, prior to the staff of the Commission's Office of Compliance Inspections and Examinations ("OCIE") commencing an examination of Ariston in October 2012, Ariston failed to adequately adopt and implement written compliance policies and procedures as required by the Advisers Act. Szczecinski served as Ariston's President during this time period and was a cause of these violations.

#### Respondent

1. **Szczecinski**, age 47, is a resident of Chicago, Illinois and served as President and an investment adviser representative of Ariston from November 30, 2011 through August 30, 2013. During that time period, Szczecinski was also dually registered with Meyers Associates L.P. ("Meyers") as a general securities representative.

#### Other Relevant Individuals and Entities

2. **Ariston** is a New York limited partnership formed in 2011. Ariston filed a Form ADV registration statement with the Commission on June 24, 2011 under Advisers Act Rule 203A-2(d)<sup>2</sup> as a newly-formed adviser, which registration became effective on July 13, 2011. Ariston withdrew from registration with the Commission on July 7, 2013 and registered in certain states as an investment adviser. Ariston's state registrations have all been withdrawn as of December 31, 2014 based on its representations that it has ceased conducting an advisory business.

3. **Tamara S. Kraus ("Kraus")**, age 50, is a resident of Lake Mary, Florida and served as Chief Compliance Officer of Ariston from July 2011 until July 2013. Since July 2011, Kraus has also been employed in the compliance department of registered broker-dealer Meyers and has held general securities principal, operations professional and general securities representative FINRA registrations with Meyers. Kraus worked from an office location in Longwood, Florida.

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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.

<sup>2</sup> Post Commission rules implementing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, this provision is now in Rule 203A-2(c).

4. **Theodore R. Augustyniak (“Augustyniak”)**, age 32, is a resident of Chicago, Illinois and served as a Vice President and an investment adviser representative of Ariston from November 30, 2011 through August 30, 2013. During that time period, Augustyniak was also dually registered with Meyers as a general securities representative.

### Facts

5. On June 24, 2011, Ariston filed a Form ADV initial registration statement with the Commission as a “newly formed adviser.” Form ADV requires an adviser to specify, among other things, the total amount of AUM for which the adviser provides continuous and regular supervisory or management services to securities portfolios in Part 1A, Item 5F.

6. On November 30, 2011, Szczecinski joined Ariston as its President, operating out of an office in Chicago, Illinois. On the same date, Augustyniak also joined Ariston in the Chicago Office as a Vice President. Szczecinski assigned various tasks to Augustyniak related to the operations of Ariston. On December 6, 2011, Kraus signed and filed on behalf of Ariston a Form ADV amendment that added Szczecinski to the schedule of executive officers as Ariston’s President and a control person.

7. Ariston was required under relevant Commission regulations to file its Form ADV annual amendment by March 30, 2012, updating its information and providing, among other things, the firm’s total amount of AUM in Part 1A, Item 5F calculated as of a date within 90 days prior to the filing. Records reflect that during the 90-day period prior to March 30, 2012, Ariston had less than \$80 million in AUM.

8. However, on March 30, 2012, Ariston filed a Form ADV amendment that misstated that Ariston had \$190 million in AUM (the “March 2012 ADV”), more than double Ariston’s actual AUM. Szczecinski was provided with a draft of the March 2012 ADV prior to its filing that included these figures. Kraus signed the March 2012 ADV, certifying that she was signing the filing “on behalf of, and with the authority, of the investment adviser” and that “the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct.”

9. Ariston’s March 2012 ADV reported that Ariston had 11 employees who performed investment advisory functions. During the time period relevant to the March 2012 ADV filing, most of the accounts for which Ariston provided advisory services were custodied at two large clearing brokers (“Clearing Broker A” and “Clearing Broker B”) and a small number of accounts managed by Szczecinski or Augustyniak were custodied elsewhere. Szczecinski and Augustyniak had credentialed access to Clearing Broker B’s custodial platforms for Ariston’s managed accounts, but did not at that time have credentialed access to Clearing Broker A’s custodial platform. Szczecinski was aware that another employee working in the same office as Kraus had such access for Clearing Broker A.

10. In February 2012, Szczecinski was involved in certain communications unrelated to the filing of regulatory reports in which it was discussed that if Ariston's business grew as anticipated its AUM would be approximately \$190 million.

11. With respect to the March 2012 ADV, Szczecinski instructed Augustyniak to provide Kraus with information needed to complete the filing, including determining Ariston's AUM. Szczecinski was copied on a chain of emails between Kraus and Augustyniak from March 7 and 8, 2012, in which Augustyniak provided to Kraus the \$190 million AUM figure for inclusion in the March 2012 ADV. Augustyniak initially emailed Kraus:

I was flipping through the new ADV and noticed we have 32 mm under assets. Where is that number coming from?

We still think the number is closer to 190mm. By that we should be a large advisory firm.

Kraus replied to the email later that day, stating: "I don't know where I got the number, but [you] tell me what it should be and I'll change it." The following day, Augustyniak replied to Kraus, copying Szczecinski on the chain of emails: "We are thinking it is closer to 190mm."

12. The filed March 2012 ADV represented in Item 2A that Ariston was a "large advisory firm" and represented in Part 1A, Item 5F that Ariston had \$190 million in AUM. By representing that Ariston had AUM of \$190 million in the March 2012 ADV when it had less than \$80 million in AUM, Ariston materially misstated its AUM.

13. Szczecinski was aware that the March 2012 ADV represented Ariston's AUM as \$190 million and that Augustyniak based the AUM figure included therein on a few phone conversations and without having the records to substantiate the figure. Szczecinski did not have a reasonable basis to believe that Ariston's AUM calculated as of a date within 90 days prior to the filing was \$190 million. As the President of Ariston, Szczecinski knew or should have known that his conduct would contribute to Ariston's filing with the Commission of materially false or misleading information in such report.

14. On October 1, 2012, OCIE staff notified Ariston that it would be commencing an examination of Ariston. Following inquiries from OCIE staff, Ariston filed a Form ADV amendment on November 28, 2012 reflecting then-current AUM of \$46,357,368. Szczecinski signed and filed the amendment with the Commission.

15. Investment advisers registered with the Commission are required under Advisers Act Rule 206(4)-7 to: (a) adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and rules thereunder; (b) review no less than annually the adequacy of such policies and procedures; and (c) designate an individual (who is a supervised person) responsible for administering such policies and procedures.

16. As of the time of the OCIE staff's examination, Ariston had not adopted or implemented written compliance policies and procedures reasonably designed to prevent violations

of the Advisers Act as required by Rule 206(4)-7. Ariston's compliance manual was generated from the manual of a firm where an Ariston employee had been previously employed with only the name of the firm changed. The manual was not tailored to its advisory business and Ariston's personnel, including Szczecinski, were unfamiliar with its contents. In addition, the manual contained numerous policies that were never implemented, including performance of certain oversight responsibilities assigned by the manual to Ariston's President or senior management.

17. Szczecinski knew or should have known that Ariston had not adequately adopted or implemented the required compliance policies and procedures for a registered investment adviser and that his acts and omissions would contribute to Ariston's violation of Advisers Act Rule 206(4)-7.

### **Violations**

18. As a result of the conduct described above, Ariston violated Section 207 of the Advisers Act by willfully<sup>3</sup> making material misstatements of its AUM in required Forms ADV filed with the Commission and Szczecinski was a cause of Ariston's violations.

19. As a result of the conduct described above, Ariston violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder by failing to implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules and Szczecinski was a cause of Ariston's violations.

### **Undertakings**

Respondent has undertaken to:

20. Compliance Training. No later than six (6) months after the entry of this Order, Respondent shall complete thirty (30) hours of compliance training related to the Advisers Act.

21. Notice to Advisory Clients. Within sixty (60) days of the entry of this Order, Respondent shall provide a copy of the Order to each of Respondent's existing advisory clients as of the entry date of this Order via mail, e-mail, or such other method as may be acceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

22. Certification of Compliance. Respondent shall certify, in writing, compliance with the undertakings set forth above in paragraphs 20 and 21. The certification(s) shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable

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<sup>3</sup> A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Wendy Tepperman, Assistant Regional Director, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York, 10281, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street, NE Washington, DC 20549, no later than sixty (60) days from the date of the completion of the undertaking(s).

23. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

#### IV.

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

Accordingly, pursuant to Section 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Szczecinski shall cease and desist from committing or causing any violations and any future violations of Sections 206(4) and 207 of the Advisers Act and Rule 206(4)-7 thereunder.

B. Respondent Szczecinski shall, within fourteen (14) days of the entry of this Order, pay a civil money penalty in the amount of \$25,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue 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 Bradford D. Szczecinski 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 Wendy Tepperman, Assistant Regional Director, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York, 10281.

C. Respondent shall comply with the undertakings enumerated in Section III, paragraphs 20 to 22 above.

## V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields  
Secretary