

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9407 / May 30, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15344

In the Matter of

Scuderi Group, Inc.
and Salvatore Scuderi

Respondents.

**ORDER INSTITUTING CEASE-AND-DESIST
PROCEEDINGS PURSUANT TO SECTION
8A OF THE SECURITIES ACT OF 1933,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND 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”), against Scuderi Group, Inc. (“Scuderi Group”) and Salvatore Scuderi (“Mr. Scuderi”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have each submitted an Offer of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds that:

Summary

These proceedings arise out of unregistered, non-exempt stock offerings and misleading disclosures regarding the use of offering proceeds by Scuderi Group and Mr. Scuderi, the company's president. Between 2004 and 2011, Scuderi Group sold more than \$80 million worth of securities through offerings that were not registered with the Commission and did not qualify for any of the exemptions from the Securities Act's registration requirement. The company's private placement memoranda informed investors that Scuderi Group intended to use the proceeds from its offerings for "general corporate purposes, including working capital." In fact, the company was making significant payments to Scuderi family members for non-corporate purposes, including, large, ad hoc bonus payments to Scuderi family employees to cover personal expenses; payments to family members who provided no services to Scuderi; loans to Scuderi family members that were undocumented, with no written interest and repayment terms; large loans to fund \$20 million personal insurance policies for six of the Scuderi siblings for which the company has not been, and will not be, repaid; and personal estate planning services for the Scuderi family. Between 2008 and 2011, a period when Scuderi Group sold more than \$75 million in securities despite not obtaining any revenue, Mr. Scuderi authorized more than \$3.2 million in Scuderi Group spending on such purposes.

Respondents

1. At all times relevant to this Order, Scuderi Group's predecessor entity did business as The Scuderi Group, LLC, a private, family-run company based in Massachusetts. Since its original formation in 2002, Scuderi Group has been in the business of developing an internal combustion engine that uses "split cycle" and "air hybrid" technologies to reduce fuel consumption and the emission of pollution. Scuderi Group's business plan is to develop, patent, and license its engine technology to automobile companies and other large engine manufacturers. In January 2013, Respondent Scuderi Group re-incorporated itself as a Delaware corporation named Scuderi Group, Inc.

2. Respondent Salvatore Scuderi is the President and Chief Financial Officer of Scuderi Group. He has led the company's capital raises, prepared its offering memoranda, and signed every Scuderi Group Form D filing since 2002. Mr. Scuderi, 60 years old, is a resident of Westfield, Massachusetts.

Background of Scuderi Group's Unregistered Offerings

3. Founded in 2002, Scuderi Group has been in the business of developing a new internal combustion engine design. Scuderi Group's business plan is to develop, patent, and license its engine technology to automobile companies and other large engine manufacturers. Scuderi Group, which considers itself a development stage company, has not generated any revenue.

4. Scuderi Group has funded its operations by raising \$80 million from individual investors and investment clubs from 2002 to 2012. Scuderi Group raised these funds through at least six offerings in which it sold "preferred units" to at least 415 investors. Scuderi Group never

registered any of its offerings with the Commission, claiming that they were exempt under Securities Act Section 4(2) and/or the Regulation D Rule 504 or 506 safe harbors. In fact, Scuderi Group's offerings failed to qualify for the registration exemptions because Scuderi Group made offerings that substantially exceeded the Regulation D investor limits; failed to provide investors audited financial statements; and, at Mr. Scuderi's direction, engaged in a plan to evade the registration requirements.

Scuderi Group Exceeded the Regulation D Investor Limits

5. Scuderi Group's private placement memoranda (PPMs) and subscription agreements with investors reflect the following sales of Scuderi Group preferred units during the period 2004-2012:

PPM Date	Date of First Sale in Offering	Date of Last Sale in Offering
January 2004	January 2004	October 2005
July 2004	September 2004	December 2004
January 2005	December 2004	July 2008
December 2005	July 2005	August 2006
December 2007	January 2008	July 2010
January 2010	February 2010	July 2012

6. In connection with these offerings, Scuderi Group disseminated more than 3,000 PPMs to potential investors, directly and through third parties. Scuderi Group found these potential investors by, among other things, conducting hundreds of roadshows across the U.S.; hiring a registered broker-dealer to find investors; and paying numerous intermediaries to encourage people to attend meetings that Scuderi Group arranged for potential investors.

7. Although ostensibly comprised of discrete offerings, Scuderi Group's offers and sales of securities constituted one integrated offering. Scuderi Group conducted, in essence, one continuous offering for over eight years, from January 2004 through July 2012.

8. Scuderi Group sold its preferred units pursuant to a single plan of financing. Scuderi Group funded its research, operations, and marketing exclusively through the sale of these units. Scuderi Group's stock sales have been for the same general purpose the company identified in 2002: building business by developing patents; building a working engine prototype; negotiating licensing agreements; and expanding corporate operations. The company has always sold the same class of securities and received cash consideration for the vast majority of its shares.

9. Scuderi Group's own documents reflect that, in total, over 90 of the company's investors were non-accredited investors, which exceeded the Regulation D Rule 506 limit of 35 non-accredited investors when the offerings are integrated.

10. Scuderi Group engaged in several practices that improperly reduced the number of non-accredited investors recorded on its books. In connection with its 2007 and 2010 offerings, Scuderi Group only avoided exceeding Regulation D's limit of 35 non-accredited investors by facilitating the formation of investment entities created for the purpose of investing in the company. Mr. Scuderi reviewed operating agreements and investor subscription questionnaires subsequently used by the supposedly independent investment entities. In one instance, Scuderi Group sold more than \$3.8 million in preferred units to three non-accredited "Air Hybrid Investment" clubs whose operating agreements said they were "organized to invest in the Scuderi Group" and provided a "one to one equivalency between a unit in [the club] and a [Scuderi Group] unit. . ." Scuderi Group tallied only the three non-accredited clubs on its shareholder list, even though more than 140 individual investors purchased company preferred units through the clubs.

11. In addition, Scuderi Group repeatedly sold stock to multiple tenants in common while recording only one owner of record. Scuderi Group also classified more than a dozen investors as accredited even though they had submitted documents indicating they were non-accredited investors.

Scuderi Group Fails to Provide Investors Audited Financial Statements

12. Issuers of more than \$1 million in securities can only obtain the Regulation D registration exemption if they provide non-accredited investors audited financial statements material to their investment. Scuderi Group never obtained audited financial statements or balance sheets and never provided them to its non-accredited investors. This would have been material to investors because audited financial statements would have revealed that Scuderi Group engaged in significant related-party transactions, including, among other things, loans to Scuderi family members, without documented interest or repayment terms, and payments to family members who were not employees.

13. As a result of the conduct described above, Scuderi Group and Mr. Scuderi committed violations of Sections 5(a) and 5(c) of the Securities Act, which prohibits the offer or sale of securities without a registration statement in effect or an exemption from registration.

Scuderi Group Fails to Comply with Rule 503 of Regulation D

14. Scuderi Group failed to comply with Rule 503 by making inaccurate statements in five Forms D filed with the Commission. In Forms D filed in January 2008 and April 2008, Scuderi Group incorrectly stated that it had not sold any securities to non-accredited investors in connection with those offerings. In Forms D filed in February 2005, December 2005, and February 2010, Scuderi Group incorrectly stated that the company had not sold securities to any investors as of the filing dates.

15. Scuderi Group also failed to comply with Rule 503 by failing to file Forms D within fifteen days of the first sale of securities in connection with the company's January 2005 and December 2005 offerings and failing to file an amended Form D in February 2011 for an offering that had continued for a year.

Background of Scuderi Group's Materially Misleading Disclosures

16. Scuderi Group and Mr. Scuderi made materially misleading disclosures regarding the use of offering proceeds. In PPMs dated December 21, 2007 and January 25, 2010 that Mr. Scuderi prepared, Scuderi Group said that it planned to use the net proceeds from the offerings "for general corporate purposes, including working capital." The PPMs provided that Scuderi Group could pay management bonuses at the discretion of its Board of Directors. Scuderi Group sold securities pursuant to these PPMs from 2008 to 2012, raising approximately \$75 million. Scuderi Group's disclosures gave investors the misleading impression that the company would use the offering proceeds only for the direct benefit of the company. Instead, at Mr. Scuderi's direction, Scuderi Group used a material portion of the proceeds for the direct benefit of the Scuderi family.

17. Scuderi Group's disclosures were materially misleading because they failed to inform investors that the company, at Mr. Scuderi's direction, had been, and was planning to continue, using a significant portion of the proceeds from securities offerings to make large, ad hoc bonus payments to Scuderi family employees to cover personal expenses; payments to family members who provided no services to the company; loans to Scuderi family members, without documented interest or repayment terms; large loans to fund \$20 million personal "split-dollar" insurance policies for six of the Scuderi siblings for which the company has not been, and will not be, repaid; and personal estate planning services for the Scuderi family. Scuderi Group did not have a Board of Directors; all payments were made at Mr. Scuderi's sole direction. In total, from 2008 to 2011, Scuderi Group, at Mr. Scuderi's direction, used \$3.2 million, or 4.3% percent, of the offering proceeds to personally benefit the Scuderi family over and above the usual compensation that the Scuderi family employees received.

Scuderi Group Fails to Disclose Payments and Loans to Family Members

18. Seven Scuderi family members who were Scuderi Group employees received \$2.9 million in salaries in 2008 to 2011. Though the company had not generated any revenue, between 2008 and 2011, Mr. Scuderi authorized the issuance of hundreds of checks totaling \$1.6 million as ad hoc bonuses to Scuderi family members who were Scuderi Group employees to cover personal expenses.

19. In addition, between 2008 and 2011, Mr. Scuderi directed that Scuderi Group make payments totaling more than \$330,000 to his mother, the widow of Scuderi Group founder, Carmelo Scuderi. Scuderi Group had no legal or contractual obligation to make any of these payments. She was not a Scuderi Group employee, and she provided no services to the company.

20. Between 2008 and 2011, Mr. Scuderi also directed that Scuderi Group make payments totaling \$240,000 to one of his brothers. Scuderi Group had no legal or contractual obligation to make any payments to this brother. During this period, this brother was not an active Scuderi Group employee, and he provided no services to the company.

21. At Mr. Scuderi's direction, Scuderi Group also made over \$500,000 in loans to Scuderi family employees in 2010. These loans were issued without documented interest or repayment terms. None of these loans has been repaid, in whole or in part.

Scuderi Group Fails to Disclose Insurance and Estate Planning Payments

22. At Mr. Scuderi's direction, Scuderi Group made additional loans that enabled Mr. Scuderi and five of his siblings to pay monthly premiums on \$20 million "split-dollar" life insurance policies whose beneficiaries were the Scuderi siblings' personal trusts. These arrangements provided that the company would be repaid upon the death of an insured, at which time the insurer would make a payment to the beneficiary and the beneficiary would repay the loan they received from the company. Scuderi Group and Mr. Scuderi failed to disclose that the company lent more than \$605,000 for premiums on insurance policies for Scuderi family members where the only collateral for the loans was the policies themselves.

23. After the Scuderi Group subsequently canceled their policies, it lost all the value of its insurance loans when the company decided to stop paying the tens of thousands of dollars in monthly premiums required to protect its collateral by keeping the policies active until the insureds died.

24. In addition, Scuderi Group, at Mr. Scuderi's direction, paid more than \$230,000 in trust and estate planning expenses for six Scuderi family members, one of whom never worked for the company.

25. As a result of the conduct described above, Scuderi Group and Mr. Scuderi committed violations of Section 17(a)(2) of the Securities Act, which in the offer or sale of securities prohibits obtaining money or property by means of any untrue statement of a material

fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

Undertakings

Respondent Scuderi Group undertakes to:

26. In connection with any future offerings or sales of securities, disclose to potential investors all compensation or payments made to any known Scuderi family member in the preceding calendar year.

27. Within 15 days of the date the Order is approved by the Commission, inform every known holder of Scuderi Group securities of the settlement between the Commission, Scuderi Group, and Mr. Scuderi and provide them with a URL where they can review a copy of the Order.

28. In connection with all loans provided by Scuderi Group to any known Scuderi family member, memorialize in writing all loan terms including the amount, duration, interest rate, repayment terms, and recourse or collateral available to Scuderi Group in the event of non-payment.

29. Certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, 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 requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Rami Sibay, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 8A of the Securities Act, it is hereby ORDERED that:

A. Respondents Scuderi Group and Mr. Scuderi shall cease and desist from committing or causing any violations and any future violations of Sections 5(a), 5(c) and 17(a)(2) of the Securities Act.

B. Respondent Mr. Scuderi shall pay a civil money penalty in the amount of \$100,000 to the Commission. Payment shall be made according to the following schedule: (1) \$25,000, within 20 days from the entry of this Order; (2) \$25,000, within 180 days from the entry of this Order; (3) \$25,000 within 270 days from the entry of this Order; and (4) \$25,000 within 365 days from the entry of this Order. Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post-Order interest, which accrues pursuant to 31 U.S.C. §

3717 on any unpaid amounts due after 30 days from the entry of this Order. Prior to making the final payment set forth herein, Respondent Mr. Scuderi shall contact the staff of the Commission for the amount due for the final payment.

If Respondent Mr. Scuderi fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-Order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application. Payment must be made in one of the following ways:

- (1) Respondent Mr. Scuderi 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
- (2) Respondent Mr. Scuderi 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 Salvatore Scuderi 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 Stephen L. Cohen, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5521.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, the Commission may order that any civil money penalty paid by Mr. Scuderi be used to create a Fair Fund for the benefit of injured investors. If the Commission does not create a Fair Fund, the Commission will order the transfer of any civil money penalty paid by Mr. Scuderi to the United States Treasury in accordance with Section 21F(g) of the Securities Exchange Act of 1934 for the Investor Protection Fund. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent Mr. Scuderi agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action"

means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

D. Respondent Scuderi Group shall comply with the undertakings enumerated in Section III. above.

By the Commission.

Elizabeth M. Murphy
Secretary