

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4413 / June 2, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17276

In the Matter of

**James Caird Asset
Management LLP and Timothy
G. Leslie,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(e), 203(f),
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940, MAKING
FINDINGS AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against James Caird Asset Management LLP (“JCAM”), and pursuant to Sections 203(f) and 203(k) of the Advisers Act against Timothy G. Leslie (“Leslie”) (together “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers 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 Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f), and 203(k) of the Advisers Act, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

This matter concerns investment adviser James Caird Asset Management LLP's ("JCAM") and its principal Timothy Leslie's misleading disclosures concerning the trading overlap and allocations between their approximately \$2 billion hedge fund client, called the JCAM Global Fund ("Global"), and their approximately \$100 million fund client, called the JCAM Credit Opportunities Fund ("CrOp"). CrOp was a closed-end private fund with a three-year lock-up period designed and marketed to invest primarily in less liquid, stressed and distressed assets arising out of the 2008-2009 financial crisis. Respondents represented that they expected such investment opportunities to be held on a longer-term basis. By contrast, Global was approximately 20 times the size of CrOp and was a multi-strategy private fund with different risk and liquidity constraints due, in part, to the fact that it permitted monthly, quarterly, and semi-annual investor redemptions.

Respondents expected, and created the impression for Global and its existing and prospective investors, that there would be little overlap in the trading of CrOp and Global. Leslie, however, who through a family trust owned a much larger percentage of CrOp than he did of Global, often allowed CrOp to participate with Global in short-term trades in connection with liquid underwritten offerings ("New Issues"), such as equity initial public offerings ("IPOs") and shareholder placements. When investing in these New Issues for CrOp, Respondents routinely allocated at least 1/3—and sometimes 50% to 100%—of these often highly profitable new issues to CrOp. Primarily due to this trading activity, most of CrOp's positions overlapped with Global's, and CrOp's trading and profits were concentrated in short-term trades in connection with liquid New Issues.

In light of the nature and extent of CrOp's trading in New Issues and the overlap with Global, how Leslie allocated trades, and the attendant conflicts of interest Respondents faced in managing both funds, Respondents operated JCAM and CrOp in a manner inconsistent with the prior disclosures they made to Global and its investors. As a result of this negligent conduct, JCAM and Leslie breached their fiduciary duty to Global in violation of Section 206(2) of the Advisers Act and violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

Respondents

1. **James Caird Asset Management LLP ("JCAM")** was an investment adviser founded and located in the United Kingdom in 2008, with affiliates located in London and New York, New York. JCAM and its U.S. affiliate James Caird Asset Management (US) LP ("JCAM US") served as subadvisers for their parent, James Caird Asset Management Limited ("JCAM

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

Limited”), in managing a number of JCAM-branded master-feeder hedge funds organized in the U.S. and offshore. JCAM became authorized by the UK’s Financial Services Authority (now the Financial Conduct Authority) beginning in late 2007, and JCAM US was registered with the Commission as an investment adviser from April 2012 until January 2015. At its peak, JCAM managed approximately \$3.5 billion in assets.

2. **Timothy Grahame Leslie (“Leslie”)**, age 49, co-founded JCAM and was its majority owner (approximately 92%), Chief Investment Officer, and a member of JCAM Limited’s board of directors. Leslie managed Global with other portfolio managers, but exercised ultimate control over investment decisions for Global and was the sole portfolio manager for CrOp. Leslie, on behalf of his family trust of which he is one of four beneficiaries (“Leslie Family Trust”), invested approximately twice as much money in CrOp as Global, owning less than 1% of Global and between 18-23% of CrOp. Leslie currently owns and controls JCAM Investments Ltd., an investment adviser authorized by the UK’s Financial Conduct Authority in January 2013.

Other Relevant Entities

3. **JCAM Global Fund (“Global”)** was a private multi-strategy fund that JCAM and JCAM US managed as subadvisers for JCAM Limited in mid-2008. Global had been managed previously by another investment adviser (“Adviser A”) where Leslie had served as the fund’s portfolio manager since 2003. The Global fund structure included U.S. and offshore feeder funds. From July 2008 through most of 2011, Global’s net asset value (“NAV”) usually ranged between \$2 billion and \$2.5 billion. It has been in liquidation since December 2011.

4. **JCAM Credit Opportunities Fund (“CrOp”)** was a private fund launched by JCAM in early December 2008 to focus on investments in stressed and distressed assets. Its NAV grew from \$96.55 million to \$196.3 million by the time it began winding down in late 2010. Most or all of CrOp was owned by four investors, namely Global (20-26%), the Leslie Family Trust (18-23%), another JCAM co-founder (1%), and the owner of Adviser A (50%, indirectly), who also was an investor (indirectly) in JCAM and Global. In late 2009, a few individuals unaffiliated with JCAM made small investments in CrOp.

Facts

Respondents Launched the Global and CrOp Funds With Distinct Strategies

5. In July 2008, the newly-launched JCAM took over management of Global, a hedge fund that employed multiple diversified long/short investment strategies that Leslie had previously managed while employed at Adviser A. Among many other areas of investment, JCAM marketed Global as a fund that traded in New Issues. Global's offering memoranda notified investors that JCAM may manage additional funds in the future that may invest in the same markets as Global and certain conflicts of interest could result. Although the offering memoranda stated that JCAM was under no obligation to offer every investment opportunity to Global, JCAM disclosed that it would manage any conflict of interest fairly and, when exercising its discretion, would allocate investment opportunities among funds on a "fair and equitable basis." Global investors could redeem their investment monthly, quarterly or semi-annually.

6. In the Fall 2008, through offering and marketing materials and other communications, Respondents began marketing JCAM's new CrOp fund, telling Global investors and Global's board that CrOp was designed to take advantage of the financial crisis, and that Respondents expected CrOp would be focused on longer-term investing in less liquid, stressed and distressed assets that may take longer to achieve a return. To Global's board and investors, Respondents distinguished CrOp from Global by emphasizing CrOp's longer-term focus on stressed and distressed assets and the associated liquidity risks of these underlying investments. Respondents explained that CrOp's three-year lock-up allowed it to capitalize on less liquid investments that were expected to take longer to pay off.

7. Respondents, with the consent of Global's board, caused Global to "seed" CrOp with a \$25 million investment, and informed Global's board that CrOp was an alternative to Global itself investing directly "in stressed assets to a greater extent." As JCAM explained in one of its marketing materials: "[I]n common with most hedge funds the liquidity terms of JCAM's flagship fund [Global] limits its appetite for investment in less liquid securities. [CrOp] was therefore launched to invest in such assets and is structured so as to properly align the interests of investors and JCAM."

8. In December 2008, Respondents launched CrOp with \$96.55 million invested exclusively from the Leslie Family Trust, another JCAM officer, Global, and the owner of Adviser A (indirectly). Throughout CrOp's three-year life, the Leslie Family Trust owned approximately 18-23% of CrOp, and less than 1% of Global.

Respondents Allocated to CrOp Significant Numbers of Profitable, Short-Term Trades in New Issues

9. Notwithstanding Respondents' marketing of CrOp and JCAM's expectations that there would be little overlap between CrOp's trading and Global's trading, Leslie, from CrOp's inception, allocated to CrOp dozens of equity IPOs and hundreds of other New Issues of public, underwritten, initial and secondary offerings of equities, corporate bonds, and convertible bonds,

including shareholder placements. These New Issues were not the less liquid investments that Respondents expected and stated CrOp would trade, nor did CrOp hold these investments for the long-term. Rather, CrOp typically sold these offering shares within a few days after purchase and numerous times sold them the same day.

10. Although Global had a lower risk appetite and greater liquidity needs due to its redemption provisions and was approximately 20 times larger than CrOp, when he allowed CrOp to participate in a New Issue, Leslie—who was CrOp’s sole portfolio manager and in most instances decided whether and to what extent CrOp traded in the same securities as Global—typically allocated to CrOp 1/3 of the shares allocated to JCAM in New Issue offerings, and sometimes allocated 50% to 100% of these securities to CrOp.

11. During its two-year investment period, and despite its advertised expected focus on longer-term, less liquid, stressed and distressed investments, Respondents invested much of CrOp’s capital in liquid New Issues as compared to other investments, and CrOp earned approximately 60% of its gross profits from New Issues trading. For equities in particular, CrOp’s frequent short-term trading in usually-exchange traded equity New Issues accounted for approximately 46% of its gross profits, and the most liquid new issues—IPOs—accounted for approximately 14% of its gross profits. These IPOs typically were in short supply and high demand because of their expected profitability and lower risk.

JCAM’s Allocation Policies

12. In March 2009, Respondents adopted JCAM’s first written “Guidelines on Allocation and Aggregation of Trades,” which JCAM sent to existing and prospective Global investors as an attachment to Global’s due diligence questionnaire (“DDQ”). Consistent with Global’s offering memoranda, JCAM adopted the policy to “ensure a fair and equitable treatment of its Funds.” The policy further stated that, while CrOp was established “to take positions in less liquid (or potentially less liquid) investment opportunities, primarily in credit and related instruments,” it “may also invest in other parts of the corporate balance sheet, including equities, convertibles and other instruments as set out in the offering documentation of the fund.”

13. In connection with shorter-term opportunities, JCAM’s March 2009 policy provided that:

Whilst CrOp’s core positions are expected to be longer term in nature (3 months plus) the fund may also trade where we see shorter term opportunity, particularly where the Global Fund is fully allocated to a trade or where there are liquidity concerns.

JCAM’s initial policy also provided that portfolio managers consider several factors when allocating trades, including the expected holding period, liquidity and the potential for less liquidity, availability of capital, and diversification and concentration risks.

14. By August 2009, for any new investments that Leslie determined were

appropriate to share between Global and CrOp, Respondents typically allocated 1/3 to CrOp and 2/3 to Global. Leslie regularly employed this ratio throughout the remainder of CrOp's investment period in 2009 and 2010. While JCAM informed one third-party hired to market CrOp in March 2009 that the typical allocation was 1/3 CrOp and 2/3 Global, JCAM did not inform prospective or actual Global investors, or Global's board, of this practice.

15. In January 2010 Respondents adopted a new written allocation policy to memorialize what they by then called the "standard" 1/3 – 2/3 allocation for all trades made on behalf of both Global and CrOp. This policy, adopted to "manage any conflicts of interest that might arise during the management" of Global and CrOp, stated that the ratio was determined based on the respective sizes of their two funds and what a presumed "standard 'large'" exposure for each fund was as a proxy for their relative risk appetites. With regard to New Issues, the policy stated as follows:

Both funds are likely to invest in new issue securities . . . where the trade size was potentially large. For example, it is unusual for Global to take a position exceeding 1% of NAV in an individual security or new issues. Where trade size (actual or applied for) exceeds \$20 million such trades would be allocated 1/3 [CrOp] 2/3 [Global] if they are considered appropriate for CrOp. Exceptions to this guidance will include potentially illiquid securities where the risk appetite of the Global Fund may be substantially lower than \$20m and CrOp may participate.

16. JCAM provided a version of its January 2010 policy to existing and prospective Global investors as an exhibit to Global's DDQ, but unlike JCAM's internal version, this investor version did not contain the 1/3 – 2/3 ratio, the calculations leading to this ratio, or the provisions relating to instances where Global's trade size in new issues exceeds 1% of its NAV. Rather, the version provided to investors stated that "[i]t is not practical to establish specific rules governing allocations . . . Investments which are and are expected to remain liquid will normally be made on the basis of a standard allocation based on the relative size of the two funds and their risk appetite." A footer noted that this was a "redacted" version of JCAM's internal policy, but represented there were "no material differences" between the disclosed and internal policies.

Respondents Did Not Completely and Accurately Describe to Global and Its Investors the Nature and Scope of CrOp and Global's Trading Overlap and the Reasons for CrOp's Success

17. When soliciting some Global investors to invest in CrOp in early 2009, and in updates to CrOp's board (whose members all were also members of Global's board) in 2009 and 2010, JCAM noted that CrOp was pursuing shorter-term, opportunistic investments. Given the shift in CrOp's investment focus and the high degree of overlap between CrOp's and Global's investments, however, JCAM and Leslie should have, but did not, adequately explain to Global's board or investors the nature and extent of CrOp's New Issue trading and overlap.

18. JCAM and Leslie never updated Global's offering memoranda or other marketing

materials to address CrOp’s trading or allocations. Respondents also should have, but did not, update the DDQ response they provided to many existing and prospective Global investors about CrOp, which described CrOp as a fund launched “to provide an appropriate structure for investing in longer term stressed and distressed investments.” Instead, despite the significant overlap, JCAM continued to distribute marketing materials that discussed divergent investment strategies for CrOp and Global, and made other statements to some investors which created the impression that little trading overlap was expected or occurring. Respondents likewise did not inform Global’s board about the nature and the extent of the overlap with CrOp.

19. As noted above, CrOp’s New Issues trading of liquid, usually-exchange traded equities accounted for approximately 46% of its gross profits, and the most liquid equity New Issues—IPOs—accounted for approximately 14% of its gross profits.

Violations

20. Based on the conduct described above, JCAM and Leslie willfully² violated Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*

21. Based on the conduct described above, JCAM and Leslie willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which makes it a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of Section 206(4) of the Advisers Act for any investment adviser to a pooled vehicle to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle, or to otherwise engage in any act, practice, or course of business that is fraudulent, deceptive or manipulative with respect to any investor or prospective investor in the pooled investment vehicle. A violation of Section 206(4) and the rules thereunder does not require scienter. *Steadman*, 967 F.2d at 647.

² 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)).

Undertakings

Respondents have undertaken to do the following:

22. Notice to Investors. Within thirty (30) days of the entry of this Order, via mail, e-mail, or such other method as may be not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff:

a. JCAM shall, and Leslie shall cause JCAM to, undertake reasonable efforts to provide a copy of the Order to each investor since January 1, 2011, of the JCAM Global Fund Limited, JCAM Global Fund (US) LP, and JCAM Global Fund (Master), L.P. using the last known address of each such investor.

b. Leslie shall otherwise provide a copy of the Order to (i) each client of Leslie or JCAM Investments Limited (“JIL”), and (ii) each investor in any pooled investment vehicle managed by Leslie or JIL.

23. Deadlines. For good cause shown, the Commission’s 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.

24. Certifications of Compliance by Respondents. Respondents Leslie and JCAM shall certify, in writing, compliance with their 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 JCAM and Leslie agree to provide such evidence. The certification and supporting material shall be submitted to Jeffrey Finnell, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-5010-A, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Division of Enforcement, 100 F Street, N.E., Washington, DC 20549, no later than ten (10) days from the date of the completion of the undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in each of Respondents’ Offers.

Accordingly, pursuant to Sections 203(e), 203(f) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondents JCAM and Leslie cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder.

B. Respondents JCAM and Leslie are censured.

C. Respondent Leslie shall, within ten (10) days of the entry of this Order, pay disgorgement of \$1,708,957, prejudgment interest of \$212,117, and a civil money penalty of \$200,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 (the "Exchange Act"). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 for disgorgement and 31 U.S.C. § 3717 for penalties. Respondent JCAM shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$400,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). 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:

- (a) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (b) Respondents 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
- (c) Respondents 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 the relevant entity or individual 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 Julie M. Riewe, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-5010A.

D. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' 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 they 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 Securities and Exchange Commission. 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.

E. Respondents JCAM and Leslie shall comply with their respective undertakings enumerated in Paragraphs 22-24 above.

By the Commission.

Brent J. Fields
Secretary