

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5367 / September 26, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19526

In the Matter of

NICHOLAS LATTANZIO,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS

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 Nicholas Lattanzio (“Lattanzio” 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, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in paragraph III.3 below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Lattanzio, age 62, resided in Montclair, New Jersey during the relevant period. During the relevant period, Lattanzio was the 100% owner of Black Diamond Investments LLC ("Black Diamond LLC"), through which he controls Black Diamond Fund (the "Fund"), Black Diamond Investments, LP ("Black Diamond Investments") and Black Diamond GP, LLC ("Black Diamond GP"). He also owned 90% of Black Diamond Investments, and the other 10% is owned by the Lattanzio Family Trust, of which he is Trustee. Black Diamond Investments was an unregistered investment adviser for Black Diamond Fund, a purported investment vehicle for its limited partners. Black Diamond GP was the general partner of Black Diamond Fund and manages that entity.

2. On June 10, 2015, the Commission filed a civil action against Lattanzio in the United States District Court for the District of New Jersey, Securities and Exchange Commission v. Nicholas Lattanzio, et al., Civil Action Number 2:15-CV-03883 (KM-JBC) (D.N.J.). The Commission's complaint alleges, inter alia, that Lattanzio, while managing Black Diamond Investments, participated in a fraudulent scheme to mislead investors and advisory clients as to their investment in the Fund.

3. On February 15, 2018, Lattanzio was convicted of two counts of securities fraud, violating 15 U.S.C. §§ 78j(b) & 78ff; and two counts of wire fraud, violating 18 U.S.C. § 1343, before the United States District Court for the District of New Jersey, in United States v. Lattanzio, 2:15cr00446 (D.N.J.) (KM). On July 12, 2018, a judgment in the criminal case was entered against Lattanzio. He was sentenced to a prison term of 72 months followed by three years of supervised release and ordered to make restitution in the amount of \$3,929,600.00.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Lattanzio be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

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

Vanessa A. Countryman
Secretary