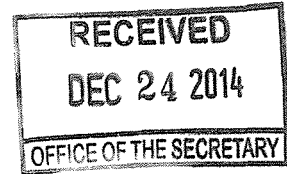


UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION



Administrative Proceeding
File No. 3-16165

In the Matter of	:	
	:	THE DIVISION OF ENFORCEMENT'S
	:	REQUEST FOR ISSUANCE OF
DAVID SCOTT CACCHIONE,	:	DOCUMENT SUBPOENAS TO
	:	MONTARA CAPITAL MANAGEMENT
	:	LLC AND DAVID SCOTT
Respondent.	:	CACCHIONE
	:	

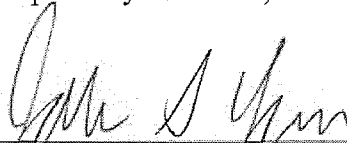
In light of the Hearing Officer's Order, dated December 19, 2014, denying the parties' cross-motions for summary disposition and setting a February 18, 2015 trial date on three issues, the Division of Enforcement ("Division") submits this request pursuant to Rule 232 of the Commission's Rules of Practice for the issuance of a document subpoenas to Montara Capital Management LLC ("Montara") and to David Scott Cacchione ("Cacchione"). Although the Division previously indicated in the Joint Prehearing Conference Statement, dated October 16, 2014, that the Division did not anticipate serving any document subpoenas, the Division's position was predicated upon the resolution of this proceeding through the Division's request for permission to file a motion for summary disposition.

Now that the December 19th Order has set an evidentiary hearing on the specific issues of Montara's status as an investment adviser and of Cacchione's status as a person associated with an investment adviser, the Division wishes to subpoena Montara and Cacchione documents that are relevant to one or both of those hearing issues. For the

hearing officer's convenience, the Division has enclosed draft subpoenas to Montara Capital Management LLC and to David Scott Cacchione, along with a self-addressed UPS envelope in which the executed subpoenas may be returned for service by the Division.

Dated: December 23, 2014

Respectfully submitted,



John S. Yun

~~Samantha J. Choe~~

Attorneys for the Division of Enforcement
Securities and Exchange Commission
San Francisco Regional Office
44 Montgomery Street, Suite 2800
San Francisco, CA 94104
Phone: (415) 705-2468
Email: yunj@sec.gov
Attorney for the Division of Enforcement



SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA SECURITIES AND EXCHANGE COMMISSION

To: David Scott Cacchione
c/o Mauricio S. Beugelmans
Beugelmans, PLLC
One Sansome Street, Suite 1895
San Francisco, CA 94104

You are hereby required to produce to the Division of Enforcement of the Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, California, 94104, on the 9th day of January 2015, at 5:00 p.m., **In the Matter of David Scott Cacchione, Administrative Proceeding File No. 3-16165**, those books, papers, documents, and other things described in the Attachment hereto.

Fail not at your peril.

In testimony whereof, the undersigned, an officer designated by the Securities and Exchange Commission, has set his hand this ___th day of December, 2014.

Honorable Jason S. Patil
Administrative Law Judge

SUBPOENA ATTACHMENT FOR DAVID SCOTT CACCHIONE

December 23, 2014

In the Matter of David Scott Cacchione Administrative Proceeding File 3-16165

DEFINITIONS

- A. "You," and "Your" means David Scott Cacchione and any person acting on behalf of Cacchione with express, implied, or apparent authority to do so.
- B. "Montara," means Montara Capital Management LLC and all of its current and former principals, officers, directors, employees, agents, independent contractors, partners, limited partners, attorneys, accountants, affiliates, subsidiaries, divisions, predecessors, and successors; and any person acting on behalf of Montara with express, implied, or apparent authority to do so.
- C. "Fund" means the Montara Capital Fund, L.P. as well as all other private investment funds for which Montara planned to provide, offered to provide, proposed to provide and/or provided investment advice or management services.
- D. "Documents" means any and all records in your possession, custody, or control, whether drafts or in finished versions, whether stored in written, magnetic, or electronic form, including but not limited to files, notes, summaries, analyses, memoranda, correspondence, electronic mail, facsimile transmissions, audio or video tape recordings, computer tapes or disks, and any records encompassed by Rule 34(a) of the Federal Rules of Civil Procedure.
- E. "Communications" includes any transmittal or receipt of information, whether by chance or prearranged, formal or informal, oral, written, or electronic, including but not limited to conversations, meetings, and discussions in person or by telephone or video conference; and written correspondence through the use of the mails, telephone lines and wires, courier services, and electronic media such as electronic mail, text messages, and instant messages.
- F. A communication or document "concerning," "involving," "relating," "related," or "which relates" to any given subject means any communication or document that constitutes, contains, discusses, embodies, evidences, reflects, identifies, states, refers to, deals with, bears

upon, or is in any way pertinent to that subject, including documents concerning the preparation of other documents.

TIME PERIOD

Unless otherwise stated, the relevant time period for this subpoena is June 1, 2013 through the date of production.

DOCUMENTS TO BE PRODUCED

You are requested to produce the following materials:

1. All documents relating to Montara or the Fund.
2. All documents relating to the registration of Montara with any state or the Securities and Exchange Commission as an investment adviser.
3. All communications between you and any agents, employees, consultants, and accountants of Montara or of the Fund.
4. All communications between you and any current or prospective investors and/or clients.
5. All draft and final agreements, contracts, or memoranda of agreements involving you concerning the providing of investment advice.
6. All communications between you and any investment adviser or investment fund.
7. All documents relating to forming an investment adviser, investment fund or investment company.
8. All communications relating to you seeking to provide investment advice to any other person.
9. All telephone records, including but not limited to monthly statements, of all telephones or wireless phones maintained by you.
10. All meeting and appointment calendars for you, Montara and/or the Fund.



SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA SECURITIES AND EXCHANGE COMMISSION

To: Montara Capital Management LLC
c/o Mauricio S. Beugelmans
Beugelmans, PLLC
One Sansome Street, Suite 1895
San Francisco, CA 94104

You are hereby required to produce to the Division of Enforcement of the Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, California, 94104, on the 9th day of January 2015, at 5:00 p.m., **In the Matter of David Scott Cacchione, Administrative Proceeding File No. 3-16165**, those books, papers, documents, and other things described in the Attachment hereto.

Fail not at your peril.

In testimony whereof, the undersigned, an officer designated by the Securities and Exchange Commission, has set his hand this ___th day of December, 2014.

Honorable Jason S. Patil
Administrative Law Judge

SUBPOENA ATTACHMENT FOR MONTARA CAPITAL MANAGEMENT LLC

December 23, 2014

In the Matter of David Scott Cacchione Administrative Proceeding File 3-16165

DEFINITIONS

A. "Montara," "You," and "Your" mean Montara Capital Management LLC and all of its current and former principals, officers, directors, employees, agents, independent contractors, partners, limited partners, attorneys, accountants, affiliates, subsidiaries, divisions, predecessors, and successors; and any person acting on behalf of Montara with express, implied, or apparent authority to do so.

B. "Fund" means the Montara Capital Fund, L.P. as well as all other private investment funds for which Montara planned to provide, offered to provide, proposed to provide and/or provided investment advice or management services.

C. "Cacchione" means respondent David Scott Cacchione and all persons, employees, agents, accountants and any person acting on his behalf.

D. "Gabrielli" means Patrick Joseph Gabrielli and all persons, employees, agents, accountants and any person acting on his behalf.

E. "Documents" means any and all records in Your possession, custody, or control, whether drafts or in finished versions, whether stored in written, magnetic, or electronic form, including but not limited to files, notes, summaries, analyses, memoranda, correspondence, electronic mail, facsimile transmissions, audio or video tape recordings, computer tapes or disks, and any records encompassed by Rule 34(a) of the Federal Rules of Civil Procedure.

F. "Communications" includes any transmittal or receipt of information, whether by chance or prearranged, formal or informal, oral, written, or electronic, including but not limited to conversations, meetings, and discussions in person or by telephone or video conference; and written correspondence through the use of the mails, telephone lines and wires, courier services, and electronic media such as electronic mail, text messages, and instant messages.

TIME PERIOD

Unless otherwise stated, the relevant time period for this subpoena is June 1, 2013 through the date of production.

DOCUMENTS TO BE PRODUCED

Montara is requested to produce the following materials:

1. All documents constituting, reflecting, discussing and/or regarding the formation of Montara.
2. All draft and final Montara management agreements, board minutes, board resolutions, operating agreements, employment agreements, compensation agreements and shareholder agreements.
3. All draft and final Montara written communications (including emails and correspondence) regarding Montara, the Fund, Cacchione, Gabrielli, the Montara Form ADV filed with the Securities and Exchange Commission ("Commission") on June 25, 2014, any potential clients of Montara or the Fund, or any proposed or actual business activities of Montara or the Fund.
4. All draft and final agreements, contracts, or memoranda of agreements between Montara and the Fund.
5. All Montara documents drafted, signed, or reviewed (in whole or in part) by Cacchione.
6. All Montara banking documents including (but not limited to) bank statements, check registers, account opening documents, checks, wire transfer records and records of deposit for any bank account in the name of Montara or the Fund.
7. All Montara brokerage account documents including (but not limited to) brokerage statements, account opening documents, checks, wire transfer records, trading records and confirmations, and records of deposit for any brokerage account in the name of Montara and/or the Fund.

8. All Montara documents constituting, reflecting, discussing and/or regarding the solicitation of clients for itself and/or the Fund including (but not limited to) brochures, draft or final offering circulars, business plans, proposed investment advisory agreements, websites, mail solicitations, notes of telephone calls or meetings, communications with prospective clients and client questionnaires.

9. All documents constituting, reflecting, discussing and/or regarding the registration of Montara with any state or the Securities and Exchange Commission as an investment adviser.

10. All documents constituting, reflecting, discussing and/or regarding the amounts billed to, or paid by, Montara or Cacchione for the preparation and filing of Montara Form ADV with the Commission

11. All proposed and final employment agreements between Cacchione and Montara and/or between Cacchione and the Fund.

12. All documents constituting, reflecting, discussing and/or regarding the proposed or actual transfer of money or property between Cacchione and Montara including (but not limited to) Montara's payment or reimburse of expenses for Cacchione.

13. All documents constituting, reflecting, discussing and/or regarding communications involving Cacchione and/or Gabrielli about Montara or the Fund.