

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4691 / April 26, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-13417

In the Matter of an Application Filed Under
Rule 193 of the Commission's Rules of
Practice on behalf of

MICHAEL L. SILVER

For Consent to Associate with Fountainhead
Capital Management, LLC

ORDER GRANTING CONSENT
TO ASSOCIATE

Pursuant to a consent order, Michael L. Silver is subject to a bar from association with any broker, dealer, or investment adviser, with the right to reapply to become so associated after three years. *Michael L. Silver*, Investment Advisers Act Release No. 2860 (Mar. 27, 2009). Silver has submitted an application (the "Application") for consent to associate with Fountainhead Capital Management, LLC ("Fountainhead"), a registered investment adviser.

Silver was employed between 1996 and 2003 by Prudential Securities, Inc., a firm then dually-registered with the Commission as a broker-dealer and investment adviser. In the administrative proceedings against him, the Commission alleged that Silver had been enjoined by consent on February 24, 2009, from future violations of Section 17(a) of the Securities Act, Section 10(b) of the Securities Exchange Act and Rule 10b-5. *SEC v. O'Meally, et al.*, 06 Civ.6483 (LTS) (S.D.N.Y.), Litigation Release No. 20910 (Feb. 25, 2009). The Commission's complaint in the civil action alleged that, from at least January 2001 until September 2003, Silver defrauded mutual fund companies and the funds' shareholders by engaging in market timing trades on behalf of four hedge fund customers through the use of multiple customer account numbers and financial adviser numbers.

The Application, filed pursuant to Rule 193 of the Commission's Rules of Practice,¹ seeks consent to associate with Fountainhead in its capacity as an investment adviser. Silver represents that he will: (i) be employed by Fountainhead to oversee business strategy and business development for the firm; (ii) not be involved in any trading activities; (iii) not have any oversight of asset allocation or individual positions; (iv) not provide investment advice to clients; (v) not open or close client accounts, nor control or access client accounts; and (vi) have no supervisory duties. Silver will be supervised by Marc Rock, Fountainhead's managing partner,

¹ 17 C.F.R. § 201.193

and Robert Renshaw, the firm's chief compliance officer, neither of whom has a disciplinary history. He will have monthly reviews or meetings with one or both of his supervisors.²

The Commission staff, in the exercise of delegated authority, has reviewed the application, and, relying on the representations made by Silver and Fountainhead, has concluded that the applicant has made a satisfactory showing that the proposed association is consistent with the public interest and, hence, that the application meets the standard set forth in Rule 193(c).³

Accordingly, IT IS ORDERED that the Rule 193 application submitted on behalf of Silver be, and hereby is, granted.

For the Commission, by the Division of Enforcement pursuant to delegated authority.⁴

Brent J. Fields
Secretary

² All additional representations and terms and conditions of employment not specifically listed are incorporated in this order by reference.

³ 17 C.F.R. § 201.193(c).

⁴ 17 C.F.R. § 200.30-4(a)(5).