

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940  
Release No. 2520 / June 6, 2006**

**ADMINISTRATIVE PROCEEDING  
File No. 3-12324**

**In the Matter of**

**CapitalWorks Investment  
Partners, LLC and Mark J.  
Correnti,**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER PURSUANT TO  
SECTIONS 203(e), 203(f), AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940 AS  
TO CAPITALWORKS INVESTMENT  
PARTNERS, LLC AND MARK J. CORRENTI**

**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), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against CapitalWorks Investment Partners, LLC and Mark J. Correnti (collectively “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted individual 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 them and the subject matter of these proceedings, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Order”), as set forth below.

### **III.**

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

#### **Respondents**

1. CapitalWorks Investment Partners, LLC ("CapitalWorks") has been registered with the Commission as an investment adviser since June 9, 1999. (File No. 84-5718) It is a wholly owned subsidiary of CapitalWorks Investment Group LLC, a limited liability company owned by four principals. CapitalWorks is based in San Diego, California, and currently has approximately \$736 million in assets under management.

2. Mark J. Correnti ("Correnti") is a principal of CapitalWorks' parent company. Since 1999, he has been CapitalWorks' Director of Client Service and Marketing. Until March 2005, he was also the head of compliance. Correnti, 46, resides in San Diego, California.

#### **Summary**

3. This matter involves CapitalWorks' violations of the antifraud provisions of the Advisers Act, and Correnti's aiding and abetting of CapitalWorks' violations, in connection with false and misleading representations to prospective clients, current clients, and consultants regarding the results of a prior Commission examination.

4. The Pacific Regional Office's ("PRO") examination staff examined CapitalWorks in June 2002 and cited various deficiencies, which required CapitalWorks to take corrective action. However, in subsequent responses to requests for proposals (RFPs) from potential clients, periodic requests for information from existing clients, and consultant questionnaires, CapitalWorks falsely stated that the examination did not result in any deficiencies or require any corrective action. Correnti, as Director of Client Service and Marketing, had ultimate responsibility for the accuracy of the responses. He was fully aware of the deficiencies noted in the PRO's 2002 examination but failed to ensure their disclosure in the responses to RFPs.

5. Additionally, CapitalWorks, aided and abetted by Correnti, violated Rule 206(4)-7 under the Advisers Act, which required investment advisers to adopt by October 5, 2004 written procedures reasonably designed to prevent violations of the Advisers Act. CapitalWorks failed to adopt any written procedures that would have addressed the types of issues that arose regarding the responses until April 2005. As head of compliance, Correnti failed to ensure that CapitalWorks adopted such procedures.

#### **Facts**

6. At the conclusion of the PRO's examination of CapitalWorks in July 2002, the staff issued a "deficiency letter" to CapitalWorks on August 7, 2002, which identified various problems under the federal securities laws that needed to be rectified. The deficiencies related to CapitalWorks' advertising, marketing and performance, custody of client assets, assignment of advisory contracts, and internal controls.

7. During an exit interview at the conclusion of the examination, the staff discussed with Correnti details of the deficiencies and recommended that CapitalWorks take certain corrective action. Correnti worked on drafting a letter to the Commission staff dated September 19, 2002, in which CapitalWorks set out the steps it intended to take to address these deficiencies.

8. From August 2002 through December 2004, CapitalWorks responded to 39 RFPs. An RFP is a solicitation by or on behalf of a prospective investor (generally a pension plan or a large institutional investor) that is submitted to investment advisers interested in providing investment management services. The request is framed as a questionnaire and generally transmitted electronically to an investment adviser, often through an intermediary consultant, to be completed and returned to the prospective investor. A request may also seek updated information for a current client or a consultant, often on a quarterly basis. Consultants use requests to obtain information to apprise investors of the investment adviser's services and to match investment advisers with investors.

9. During this period, CapitalWorks had no written policies or procedures relating to client communications, including responses to RFPs. Although Correnti was responsible for drafting and modifying the compliance manual, he did not initiate or implement any written procedures. CapitalWorks' unwritten procedure, however, was that one of Correnti's subordinates in the Company's Client Service and Marketing Group prepared a draft response using answers from a database of prior responses. When an RFP presented a new question or had even slight variations, the Client Service and Marketing Group drafted a new response for it. After Correnti's final approval, the responses were transmitted by e-mail to the requesting parties.

10. Of the 39 RFPs, 12 requested specific information relating to regulatory audits, inspections or examinations. CapitalWorks made false and/or misleading statements about the 2002 examination as follows:

- a) In 10 responses, CapitalWorks falsely answered that “[t]he SEC did not find any deficiencies and required no follow-up actions” or that “[n]o violations were found.”
- b) In one response, CapitalWorks answered “N/A,” even though it had received the 2002 deficiency letter just 5 months previously.
- c) In one response, the Company also claimed that it had never been subject to a regulatory inspection.

11. As CapitalWorks' Director of Client Service and Marketing, Correnti was ultimately responsible, and gave final approval, for each completed RFP response prepared by CapitalWorks. Out of the 12 false responses, CapitalWorks only transmitted one response without Correnti's prior express approval.

12. The PRO examination staff conducted another examination of CapitalWorks in August 2004, at which time the staff informed Correnti of the false statements in the prior

responses. Nevertheless, after August 2004, Correnti approved and CapitalWorks sent out another false response dated after October 5, 2004, the compliance date for Rule 206(4)-7.

13. Despite its knowledge of the staff's concerns, CapitalWorks failed to adopt any written procedures that would have addressed the types of issues that arose regarding the responses until April 2005. As head of compliance, Correnti failed to ensure that CapitalWorks adopted such written procedures.

### **Legal Discussion**

14. Section 206(2) of the Advisers Act makes it unlawful for any investment adviser, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

15. Section 206(4) prohibits any investment adviser, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, from engaging in any act, practice, or course of business which the Commission has determined to be fraudulent, deceptive, or manipulative. Rule 206(4)-7 under the Advisers Act requires an investment adviser registered with the Commission to adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules thereunder. The effective date of the rule was February 5, 2004, and investment advisers were required to be in compliance with the rule by October 5, 2004.

16. Based on the conduct described above, CapitalWorks willfully violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder. Based on the conduct described above, Correnti willfully aided and abetted and was a cause of CapitalWorks' violations of these provisions.

### **IV.**

CapitalWorks shall comply with the following undertakings to:

17. Retain, not later than 60 days after the date of this Order, at its expense, an Independent Consultant, not unacceptable to the Commission's staff. CapitalWorks shall require the Independent Consultant to conduct quarterly reviews for a two-year period, from the date of this Order, of CapitalWorks' compliance with its written policies and procedures for responding to RFPs with a view to detect and prevent CapitalWorks from publishing, circulating, or distributing false or misleading information regarding the Commission staff's examination;

18. At the end of each quarterly review, but in no event no later than fifteen days after the end of each quarter, CapitalWorks shall require the Independent Consultant to submit to CapitalWorks and to Kelly Bowers of the Commission's Pacific Regional Office a Consultant's Report. The Consultant's Report shall describe the review performed and the conclusions reached and shall include any recommendations deemed necessary to make the policies and procedures adequate and address the deficiencies identified in Section III of the Order. CapitalWorks may

suggest an alternative procedure designed to achieve the same objective or purpose as that of the recommendation of the Independent Consultant. The Independent Consultant may accept or reject CapitalWorks' proposed alternative procedure. CapitalWorks, however, shall abide by the Independent Consultant's final recommendation;

19. Take all necessary and appropriate steps to adopt and implement the recommendations contained in the quarterly Consultant's Report;

20. Mail a copy of this Order to each existing investment advisory client within 30 days following the entry of this Order. The Order shall be sent by certificate of mailing, along with a cover letter in a form not unacceptable to the staff of the Commission;

21. From the effective date of this Order until the expiration of 12 months, provide a copy of the Order to all prospective investment advisory clients not less than 48 hours prior to entering into any written or oral investment advisory contract (or no later than the time of entering into such contract, if the client has the right to terminate the contract without penalty within five business days after entering into the contract); and

22. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with CapitalWorks, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Pacific Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with CapitalWorks, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

## V.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in CapitalWorks' and Correnti's Offers.

Accordingly, it is hereby ORDERED that:

A. CapitalWorks and Correnti be, and hereby are, censured;

B. CapitalWorks and Correnti 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)-7 promulgated thereunder;

C. CapitalWorks and Correnti shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$40,000 and \$25,000, respectively, to the United States Treasury. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies CapitalWorks and Correnti as the respondents in these proceedings and the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Kelly Bowers, Assistant Regional Director, Securities and Exchange Commission, Los Angeles Office, 5670 Wilshire Blvd., 11<sup>th</sup> floor, Los Angeles, California 90036; and

D. CapitalWorks shall comply with the undertakings enumerated in paragraphs 17-22, above.

By the Commission.

Nancy M. Morris  
Secretary