

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2797 / October 8, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13271

In the Matter of

Sterling Capital Planners, Inc.

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(e) 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(e) of the Investment Advisers Act of 1940 (“Advisers Act”) against Sterling Capital Planners, Inc. (“Sterling” 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, and the findings contained in Section III.1 and III.3 below, which are admitted, Respondent, through its Court-appointed Receiver, Arthur Steinberg, Esq., consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(e) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.¹

¹ The provisions of this Order apply to the Respondent and not to the Receiver as the person administering the receivership estate.

III.

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

1. Sterling is a registered investment adviser. Until February 2007, Sterling's principal place of business was 110 East 55th Street, New York, New York. On February 9, 2007, the Commission filed an emergency injunctive action against Sterling and its principal Ravi Kothare, and other Kothare owned entities, seeking, among other relief, the appointment of a receiver. SEC v. Kothare, et al., 07 Civ. 954 (LTS) (S.D.N.Y.) Arthur A. Steinberg was appointed as Receiver for Sterling on February 9, 2007.
2. At the time that the Commission commenced the action against Sterling, it held approximately \$39 million in assets under management. Assets under management have now been returned to Sterling's clients by the Receiver. Prior to the appointment of the Receiver, Sterling was owned and controlled by Ravi Kothare who died on March 8, 2007.
3. On October 1, 2008, a final judgment was entered by consent against Sterling permanently enjoining it from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1), 206(2), 206(4) and 207 of the Investment Advisers Act of 1940 and Rules 204-2 and 206(4)-2 thereunder, in the civil action entitled SEC v. Kothare, et al., 07 Civ. 954 (LTS) (S.D.N.Y.), in the United States District Court for the Southern District of New York.
4. The Commission's complaint alleged that, in connection with the sale of interests in a limited liability company, Sterling misused and misappropriated investor funds, falsely stated to investors that their funds were invested, sent out false account statements indicating that investors funds were fully invested and earning returns, failed to maintain subscription agreements, maintained forged subscription agreement signature pages, and otherwise engaged in a variety of conduct which operated as a scheme to fraud and deceive Sterling's clients, who had invested in Players Choice Club, LLC ("Players Choice"), a limited liability company controlled by Kothare. The Complaint further alleged that Kothare and Sterling undertook these acts while in custody or possession of funds or securities, in which clients had a beneficial interest, that had not been verified by actual examination at least once during each calendar year by an independent public accountant at a time chosen by the accountant without prior notice to Kothare and Sterling. Specifically, Sterling misappropriated at least \$1.85 million from 18 Sterling investment advisory clients and invested nearly all of this money in Players Choice. In breach of his fiduciary duty, Kothare transferred Sterling clients' funds to Players Choice without obtaining the clients' written consent and without disclosing significant conflicts of interest. At some point, Kothare disclosed the "investments" in Players Choice on the clients' Sterling account statements, but he failed to disclose that he controlled Players Choice. The account statements also reflected a "market value" for the Players Choice investment, even though the investment was illiquid and had no market value. The market value that Kothare

disclosed in the account statements was set by Kothare with no reasonable basis and falsely portrayed the investment as having maintained or even increased in value, when, in fact, Players Choice had become essentially worthless. Among other things, Sterling failed to disclose to investors that Players Choice lost its most significant asset – a two-year license from the Major League Baseball Players Association that was critical to its business. Having lost its license, Players Choice had no saleable assets or revenues.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(e) of the Advisers Act, that Respondent's registration as an investment adviser be, and hereby is, revoked.

By the Commission.

Florence E. Harmon
Acting Secretary