

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2903 / July 17, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13554

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| In the Matter of | : | |
| | : | ORDER INSTITUTING ADMINISTRATIVE |
| | : | AND CEASE-AND-DESIST PROCEEDINGS |
| PAUL W. OLIVER, JR., | : | PURSUANT TO SECTIONS 203(f) AND 203(k) |
| | : | OF THE INVESTMENT ADVISERS ACT OF |
| Respondent. | : | 1940, MAKING FINDINGS, AND IMPOSING |
| | : | REMEDIAL SANCTIONS AND A CEASE- |
| | : | AND-DESIST ORDER |
| | : | |

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(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act) against Paul W. Oliver, Jr. (“Oliver” 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. This matter arises from the misappropriation of more than \$23 million in client funds by AA Capital Partners, Inc. (“AA Capital”), a registered investment adviser that managed several affiliated private equity funds, and its former president, John Orecchio (“Orecchio”). From 2004 to 2006, Oliver, AA Capital’s former chairman, aided and abetted the misappropriations by failing to disclose the misappropriations by Orecchio and AA Capital to AA Capital’s clients and by failing to take appropriate action to halt the misappropriations after he learned of them. As a result of his inaction, Oliver aided and abetted Orecchio’s and AA Capital’s violations of Sections 206(2) and 206(4) of the Advisers Act.

Respondent

2. Oliver, age 67, is currently a resident of Wellington, Florida. He formed AA Capital with Orecchio in February 2002 and served as its chairman until his resignation in September 2006.

Other Relevant Parties

3. Orecchio, age 41, is a resident of Arlington Heights, Illinois. Orecchio co-founded AA Capital in February 2002 and acted as its president and managing director from at least April 2002 until August 30, 2006 when his employment was terminated. On September 8, 2006, the Commission filed an emergency action against Orecchio and AA Capital, SEC v. AA Capital Partners, Inc. and John A. Orecchio, Case No. 06-C-4859 (N.D. Ill.), seeking temporary, preliminary and permanent injunctive relief against Orecchio based on his aiding and abetting of AA Capital’s violations of Sections 206(1) and 206(2) of the Advisers Act. This case is still pending. Oliver was not named as a defendant in that case.

4. Mary Beth Stevens, age 39, is a resident of Lincoln, Illinois. Stevens joined AA Capital as an accountant shortly after it began operating in 2002. Shortly thereafter, Stevens became AA Capital’s chief financial officer. In 2004, Stevens also became AA Capital’s chief compliance officer. She continued in these roles until her employment was terminated in September 2006. During her employment at AA Capital, Stevens reported to Orecchio.

5. AA Capital Partners, Inc. is a Delaware corporation headquartered in Chicago, Illinois. AA Capital manages approximately \$200 million in assets for six union clients, five of which are union pension funds, and advises several private equity funds through its affiliated entities. Since 2002, AA Capital has been registered with the Commission as an investment adviser. AA Capital is a defendant in SEC v. AA Capital Partners, Inc. and John A. Orecchio. On September 12, 2006, the U.S. District Court for the Northern District of Illinois appointed W. Scott Porterfield of the law firm Barack Ferrazzano Kirschbaum & Nagelberg LLP as the receiver over AA Capital.

Background

6. When Oliver and Orecchio formed AA Capital in 2002, they divided the responsibilities for managing the assets of AA Capital's clients. Between 2002 and 2006, Oliver managed AA Capital's "fund of funds" investments, which consisted of investments in private equity funds. Orecchio managed AA Capital's direct investments, which mainly concerned real estate development deals. Orecchio also managed AA Capital's day-to-day operations.

7. While building up AA Capital's advisory business, Orecchio spent lavishly on travel and entertainment, regularly entertaining clients in Detroit, Michigan and Las Vegas, Nevada.

8. In August 2003, Orecchio began a relationship with a woman who performed at a Detroit strip club. Orecchio spent extravagant amounts of money on his mistress and her family. Between 2003 and 2006, Orecchio purchased five parcels of real estate in Michigan for his mistress and her mother, including a horse farm. He also bought a boat, several luxury automobiles and approximately \$1.4 million of jewelry for his mistress. On two separate occasions, Orecchio also rented a private Caribbean island to throw parties for his mistress and her friends. Orecchio also expended a considerable amount of money refurbishing the horse farm and paying for the renovation of a Detroit strip club that he intended to purchase, and which his mistress would manage.

9. In May 2004, Orecchio told Stevens that he owed a significant amount of money to the Internal Revenue Service based on his ownership interest in one of AA Capital's affiliated private equity funds and a failure by AA Capital's auditors to timely file certain tax returns. At Orecchio's direction, Stevens withdrew over \$600,000 from AA Capital's client trust accounts, deposited the funds into AA Capital's operating account and then wired the money to Orecchio's personal bank account.

10. On numerous subsequent occasions, Orecchio requested additional funds from Stevens to pay his purported tax liability. Between May 2004 and October 2005, Stevens made at least 20 separate disbursements to Orecchio totaling over \$5.7 million for the purported tax liability. These disbursements consisted of funds withdrawn originally from AA Capital's client trust accounts. In several instances, Stevens wired funds from AA Capital directly to bank accounts associated with Orecchio's horse farm and the Detroit strip club Orecchio was renovating.

11. Orecchio also misappropriated client funds in other ways. Between August 2005 and July 2006, Orecchio misrepresented to Stevens the amount of money required for one of AA Capital's affiliated private equity funds' investments in a real estate development. Orecchio obtained \$8.7 million in client funds for this investment, but invested only \$1.3 million in the real estate development. At Orecchio's direction, \$6.9 million of the misappropriated funds was paid to the contractors renovating his horse farm and the Detroit strip club and \$500,000 was used for a down payment on a Las Vegas, Nevada condominium.

12. Between 2004 and 2006, Orecchio also requested and received reimbursement for numerous expenses that AA Capital was not entitled to charge back to its clients. These included

more than \$1 million in non-existent political contributions, numerous visits to various casinos and strip clubs, and more than \$1.5 million in tickets to sporting events and concerts for Orecchio, his mistress, her friends and other individuals.

13. AA Capital's expenses far exceeded its revenues in 2005 and 2006, largely due to Orecchio's lavish spending.

14. In order to keep AA Capital afloat, Stevens periodically withdrew funds from AA Capital's client trust accounts to pay the firm's expenses. AA Capital ultimately misappropriated more than \$10 million in client funds to cover the shortfalls between the firm's revenues and expenses.

15. In early 2006, Oliver intended to retire, and as a result, he began negotiating with Orecchio regarding the sale of Oliver's interest in AA Capital. In approximately May 2006, Oliver and Orecchio finalized and executed a letter of intent, pursuant to which Orecchio would purchase Oliver's 50 percent interest in the business and thereby terminate Oliver's employment with AA Capital.

16. The Commission's examination staff discovered Orecchio's and AA Capital's misappropriation of client funds during a compliance inspection conducted between August 21 and 31, 2006.

17. Oliver and AA Capital's three other managing directors terminated Orecchio's association with AA Capital on August 30, 2006, just days before the Commission filed its emergency injunctive action. Orecchio was provided with a notice that suspended him from association with AA Capital based on "a written determination by the Compliance Officer of a violation of the Code of Ethics." The "written determination" consisted of a one-paragraph report that stated that Orecchio had violated AA Capital's Code of Ethics "in connection with his borrowing of approximately \$5.7 million from a fund managed by [AA Capital]."

Oliver's Conduct

18. In the summer of 2004, Oliver learned that Orecchio had borrowed approximately \$1 million for a tax "loan" due to an accountant's miscalculation of Orecchio's personal liability for a gain in an affiliated private equity fund. As a 50% owner of AA Capital, Oliver knew that his own tax liability for the same miscalculation amounted to only \$18,228. Shortly after learning about Orecchio's million-dollar loan, Oliver asked Orecchio why Orecchio's tax liability was so much greater than his own, and Orecchio represented that it was a mistake by the IRS that his advisors were actively working to correct.

19. Oliver received additional information about Orecchio's tax loan in March of 2006. At that time, Oliver met with Stevens and Orecchio to discuss the significant amount of expenses that Orecchio had charged to AA Capital. Oliver was advised that Stevens had prepared numerous financial schedules showing these expenses for use at the meeting, including AA Capital's general ledger, a schedule of accounts receivable and accounts payable and large dollar expense items.

20. During the meeting with Stevens and Orecchio, Oliver was informed that Orecchio's "tax loan" from client funds now totaled over \$5 million and also that AA Capital had "borrowed" more than \$5 million in client funds to pay its operating expenses in 2005.

21. These purported "loans" to Orecchio and AA Capital were in fact misappropriations of client funds, as AA Capital was not permitted to use client funds for such purposes. Nonetheless, Oliver did not inform AA Capital's clients that Orecchio and the firm had misappropriated their funds until September 6, 2006.

22. Oliver and the other managing directors terminated Orecchio's employment at AA Capital on August 30, 2006. However, Oliver failed to take timely and appropriate action to protect the interests of AA Capital's clients prior to that time.

Violations

23. As a result of the conduct described above, Oliver willfully aided and abetted and caused AA Capital's violations of Section 206(2) of the Advisers Act, which prohibits an investment advisor from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

24. As a result of the conduct described above, Oliver also willfully aided and abetted and caused AA Capital's violations of Section 206(4) of the Advisers Act and Rule 206(4)-4 thereunder, which prohibit an investment adviser from engaging in any act, practice, or course of business that is fraudulent, deceptive or manipulative. Because AA Capital failed to disclose to its clients its precarious financial condition and its need to misappropriate client funds to stay afloat, AA Capital violated Section 206(4) and Rule 206(4)-4 thereunder.

IV.

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

Accordingly, pursuant to Sections 203(f) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Oliver 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)-4 promulgated thereunder; and

B. Respondent Oliver be, and hereby is, suspended from association with any investment adviser for a period of 12 months, effective on the second Monday following the entry of this Order.

C. Respondent Oliver shall pay disgorgement of \$49,786.44, prejudgment interest of \$7,979.71 and a civil penalty of \$75,000 to the Securities and Exchange Commission. Payment shall be made in the following five installments: Oliver's first payment of \$26,553.23 shall be due within 10 days of the entry of this Order. Oliver's remaining four payments of \$26,553.23

each shall be due no later than 85 days after the immediately preceding payment. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 or pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payments 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 Oliver as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Timothy L. Warren, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, IL 60604.

D. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, interest and penalties referenced in paragraph C above. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that he shall not, after offset or reduction in any Related Investor Action based on Respondent's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by offset or reduction of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Elizabeth M. Murphy
Secretary