

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2983 / February 2, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-13773

In the Matter of

ALBERT FASE KALETA,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) 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(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Albert Fase Kaleta (“Respondent” or “Kaleta”).

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, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. Kaleta was the president and owner of Kaleta Capital Management, Inc. ("KCM") and a 44% shareholder of Daniel Frishberg Financial Services, Inc. d/b/a DFFS Capital Management, Inc., an investment adviser registered with the Commission. Kaleta, 66 years old, is a resident of Houston, Texas.

2. On December 2, 2009, a judgment was entered by consent against Kaleta, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and (2) of the Advisers Act, in the civil action titled Securities and Exchange Commission v. Albert Kaleta, et al., Civil Action Number 4:09-cv-03674, in the United States District Court for the Southern District of Texas.

3. The Commission's complaint alleged that, in connection with the sale of promissory notes made by KCM, Kaleta falsely stated to investors that the note proceeds would be used to make short-term loans to small businesses; that KCM would only lend to creditworthy individuals or entities whose models Kaleta had fully researched and understood; that Kaleta would perform due diligence to ensure that borrowers had the ability to repay their loans; that KCM would charge 12-14% annual interest on the loans, and would profit from the spread between that amount and the 10% promised investors. Instead, Kaleta misused and misappropriated investor funds. Kaleta paid himself, his family members, and his affiliated companies which were not creditworthy. To the extent these payments were "loans," they were not documented and were not being repaid. In addition, he misused and misappropriated investor funds by making periodic interest payments and redemptions to earlier investors with new investor funds. The Commission's complaint alleges that he also otherwise engaged in a variety of conduct which operated as a fraud and deceit on investors. The complaint also alleged that Kaleta sold unregistered securities.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, Respondent Kaleta be, and hereby is barred from association with any investment adviser;

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served

as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary