

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3395 / April 11, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14842

In the Matter of

MARK YAGALLA,

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 Mark Yagalla (“Yagalla” 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, Respondent consents to the Commission’s jurisdiction over him and the subject matter of these proceedings and 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. Yagalla was the principal of Ashbury Capital Management, L.L.C. (“Ashbury Management”) and was president, chief executive officer and portfolio manager of Ashbury Capital Partners, L.P. (“Ashbury Fund”). According to Form D filings with the Commission by Ashbury Fund and Ashbury Management, Ashbury Fund was a “private hedge fund” and Ashbury Management provided investment management and advisory services to Ashbury Fund. From at least July 1998 to October 2000, Yagalla was an associated person of an investment adviser, Ashbury Management. Yagalla is 34 years old and a resident of Florida.

2. On November 12, 2001, Yagalla pled guilty to committing securities fraud in violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §78j(b)], and Rule 10b-5 [17 C.F.R. §240.10b-5], and of committing or causing the commission of an offense against the United States punishable as a principal under 18 U.S.C. §2 before the United States District Court for the Southern District of New York, in *United States of America v. Mark Yagalla*, Case no. 01 Cr. 511 (SHS). Pursuant to the criminal judgment docketed on March 5, 2002, Yagalla was sentenced to 65 months imprisonment, three years of supervised release and ordered to make restitution of \$32,089,463.

3. Yagalla consented to the entry of a final judgment in *SEC v. Ashbury Capital Partners, L.P., et al.*, 00-7898 (PAC) permanently enjoining him from violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and from aiding and abetting the violation of Sections 206(1) and (2) of the Advisers Act. That final judgment was entered on April 4, 2012.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Yagalla be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent;

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.

By the Commission.

Elizabeth M. Murphy
Secretary