

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3740 / December 17, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15647

In the Matter of

Frank Dappah,

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 Frank Dappah (“Respondent” or “Dappah”).

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 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. Frank Dappah, age 33, is a resident of Charlotte, North Carolina. From at least

November 2010 through at least September 2013, Dappah was the principal of Yatalie Capital Management, a/k/a Yatalie Capital Management Co, Creato Funds L.P., a/k/a Yatalie Capital, Inc., a/k/a Creato Funds, L.P., a/k/a Yatalie Capital Management Co. (collectively, “Yatalie”), an investment adviser registered with the Commission since November 2010.

2. On November 21, 2013, a judgment was entered by consent against Dappah, permanently enjoining him from future violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 203A, 204, 206(1), 206(2), 206(4) and 207 of the Advisers Act and Rules 204-2 and 206(4)-1 thereunder, in the civil action entitled Securities and Exchange Commission v. Frank Dappah, et al., Civil Action Number 3:13-cv-00546, in the United States District Court for the Western District of North Carolina.

3. The Commission’s complaint against Dappah alleged that he and Yatalie, which Dappah controlled, made false and misleading statements to clients and prospective clients concerning the amount of assets under management at Yatalie, the number of clients at Yatalie, and the experience of Yatalie as an investment adviser. The Commission’s complaint further alleged that Dappah and Yatalie wrongfully charged and then deducted fees from client accounts, without the authorization or consent of clients. The Commission’s complaint further alleged that Dappah and Yatalie improperly registered with the Commission, failed to maintain required books and records of an investment adviser, and published a purported client testimonial that concerned the advice and other services rendered by Dappah and Yatalie.

IV.

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

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

barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

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