

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 73533 / November 5, 2014

INVESTMENT ADVISERS ACT OF 1940
Release No. 3965 / November 5, 2014

INVESTMENT COMPANY ACT OF 1940
Release No. 31330 / November 5, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-16258

In the Matter of

BERNICE G. NJOROGE

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
SECTIONS 203(f) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF 1940,
AND SECTION 9(b) OF THE INVESTMENT
COMPANY ACT OF 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 Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”), against Bernice G. Njoroge (“Respondent” or “Njoroge”).

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 her 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 Section 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company 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. Respondent Bernice G. Njoroge, age 38, is a resident of Charlotte, North Carolina. From at least June 2011 through at least September 2013, Njoroge was a person associated with 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”).

2. Yatalie, a sole proprietorship, was an investment adviser registered with the Commission from November 2010 until approximately December 2013. Yatalie’s principal was Frank Dappah (“Dappah”), age 33, a resident of Charlotte, North Carolina. Dappah and Njoroge have been married since approximately January 2012.

3. On November 21, 2013, in a civil action captioned SEC v. Dappah, C.A. No. 3:13-cv-00546 (W.D.N.C. Sept. 27, 2013), a judgment was entered by consent against Dappah and Yatalie that permanently enjoined them from future violations of Section 10(b) of the Exchange Act 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.

4. The Commission’s complaint in SEC v. Dappah, alleged, among other things, that Dappah and Yatalie wrongfully charged and then deducted excessive fees from Yatalie’s clients’ accounts, without the authorization or consent of clients.

5. Njoroge was Yatalie’s only other associated person besides Dappah. She was listed on Yatalie’s Form-ADV as its Chief Compliance Officer, and she signed numerous client advisory agreements in a compliance capacity on behalf of Yatalie. Multiple Yatalie client-victims identified Njoroge as having been their sole point of contact while their money was invested with Yatalie. Njoroge successfully recruited multiple client-victims to enter into advisory agreements with Yatalie, and while the excessive fee scheme was ongoing, Njoroge had communications with multiple Yatalie client-victims in which they specifically discussed with her concerns about excessive fees. Moreover, all of the fees that were improperly charged to the

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.

Yatalie client-victims were deposited into a checking account that was opened by Njoroge in her and Yatalie's name and from which Njoroge and Dappah paid their regular living expenses.

6. Additionally, after Dappah consented to the entry of an administrative order before the Commission that barred him from association with any investment adviser, Njoroge attempted to become the sole investment adviser to several former Yatalie client-victims.

7. While still associated with Yatalie and soliciting those former Yatalie client-victims to become her new investment advisory clients, Njoroge misled clients with respect to the circumstances surrounding the Commission's actions against Dappah and Yatalie, her relationships with Dappah and Yatalie, and the reasons that the client-victims of Dappah and Yatalie needed to change investment advisers. In doing so, Njoroge omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

8. As a result of the conduct described above, Njoroge willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

9. As a result of the conduct described above, Njoroge also willfully aided and abetted and caused Yatalie's and Dappah's violations of Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of 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 Njoroge's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Njoroge cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Njoroge be, and hereby is:

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

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

C. Any reapplication for association by 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 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.

D. Based upon Respondent's sworn representations in her notarized declaration of Complete Financial Disclosure dated July 28, 2014, and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent.

E. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Brent J. Fields
Secretary