

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4106 / June 9, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16580**

**In the Matter of**  
  
**Frederic Elm f/k/a Frederic Elmaleh,**  
  
**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 Frederic Elm f/k/a Frederic Elmaleh (“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 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:

A. RESPONDENT

1. From no later than November 2013 through January 2015, Respondent controlled and managed three private investment funds: Elm Tree Investment Fund LP, Elm Tree ‘e’Conomy Fund LP, and Elm Tree Motion Opportunity LP (collectively, the “Funds”). Respondent, through his company, Elm Tree Investment Advisors LLC, acted as the unregistered investment adviser to the Funds during the relevant period, maintaining control over their investment portfolios and making all final investment decisions on the Funds’ behalf. He received compensation both through fees for his advisory services and through the unauthorized use of money from the Funds. Respondent, age 45, resides in Fort Lauderdale, Florida.

B. ENTRY OF THE INJUNCTION

2. On March 25, 2015, a judgment by consent was entered against Respondent in the civil action entitled *Securities and Exchange Commission v. Frederic Elm f/k/a Frederic Elmaleh, et al.*, Civil Action Number 15-cv-60082-DIMITROULEAS/SNOW in the United States District Court for the Southern District of Florida, which, among other things, permanently enjoined Respondent from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §77q(a); Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5; and Sections 206(1), 206(2), and 206(4) and Rules 206(4)-8(a)(1) and 206(4)-8(a)(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4), and 17 C.F.R. §§ 275.206(4)-8(a)(1) and (a)(2).

3. The Commission’s complaint alleged that from no later than November 2013 through January 2015, Respondent committed fraud by soliciting individuals to invest in the Funds through the purchase of limited partnership interests and through promissory notes on the representations that (i) the Funds would use the money to trade in equities and internet ventures, and (ii) Respondent would take a 2% management fee plus 20% of the profits the Funds earned. In fact, as alleged in the complaint, Respondent invested only a portion of the money raised, most of which he lost through trading. The complaint alleged that at no point, however, did the Funds return a profit that would have entitled Respondent to the additional 20% of the earnings. Instead, as alleged in the complaint, Respondent prepared false account statements and used the majority of the money raised to pay back investors with Ponzi-like payments and for his own personal use. Indeed, the Commission alleged as of the filing of the complaint, Respondent used without authority at least \$2 million in investor funds to pay for personal expenses, which sums far exceeded the 2% management fee Respondent told investors the Funds would charge.

**IV.**

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act, that Respondent 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.

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.

Brent J. Fields  
Secretary