

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 76877 / January 12, 2016**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16389**

**In the Matter of**

**VCAP Securities, LLC, and  
Brett Thomas Graham,**

**Respondent.**

**ORDER APPROVING PLAN OF  
DISTRIBUTION**

On February 19, 2015, Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b)(4), 15(b)(6), and 21C of the Securities Exchange Act of 1934, Section 203(f) 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”) against VCAP Securities, LLC (“VCAP”) and Brett Thomas Graham (“Graham”) (collectively, “Respondents”) (Exchange Act Rel. No. 74305 (February 19, 2015)). The Commission determined that in 2012, VCAP and Graham, the CEO of VCAP, perpetrated a scheme to acquire certain securities from auctions of collateralized debt obligations (“CDOs”) that VCAP was conducting as a liquidation agent. During the course of this conduct, Graham and VCAP made material misrepresentations to the trustees of the various CDOs that VCAP and its affiliates would not bid in the auctions and would not misuse confidential information and/or bidding information afforded to VCAP as the liquidation agent. In actuality, Graham improperly used the confidential bidding information to benefit funds managed by Vertical Capital, LLC (“Vertical”), VCAP’s affiliated investment adviser. Specifically, Graham arranged for a separate broker-dealer to bid on bonds Graham wanted for Vertical managed funds, at prices slightly higher than the highest bid from other participants. After winning the bonds in the auction, the broker-dealer would immediately sell the bonds to the Vertical funds at a small markup. In addition, in one auction, Graham improperly used confidential bidding information to help a non-affiliated bidder obtain a bond for half of what the bidder was willing to pay. Therefore, the trustee received half as much in proceeds for that bond as it would have otherwise.

As a result of this conduct, the Commission found that the Respondents willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The Commission ordered VCAP to pay disgorgement of \$1,064,555 and prejudgment interest of \$85,044, and Graham to pay disgorgement of \$118,284, prejudgment interest of \$9,449, and a civil money

penalty of \$200,000. In addition, the Commission created a Fair Fund for the monies paid by Respondents pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended.

On November 24, 2015, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”) (Exchange Act Rel. No. 76511 (November 24, 2015) pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”), 17 C.F.R. § 201.1103. The Notice advised interested persons that they could obtain a copy of the proposed plan of distribution (“Distribution Plan”) from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Nancy Chase Burton, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631.

The Notice also advised that all persons desiring to comment on the Distribution Plan could submit their comments, in writing, no later than thirty (30) days from the date of the Notice (1) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (2) by using the Commission’s Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or (3) by sending an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). The Commission received no comments on the Distribution Plan.

The Fair Fund is comprised of the disgorgement, prejudgment interest, and civil penalties paid by the Respondents, plus any accumulated interest, less any federal, state, or local taxes and fees and expenses. The Distribution Plan provides for distribution of the Fair Fund to certain harmed parties previously identified by Commission staff.

The Division of Enforcement now requests that the Commission approve the Distribution Plan.

Accordingly, it is hereby ORDERED that pursuant to Rule 1104 of the Commission’s Rules, 17 C.F.R. § 201.1104, the Distribution Plan is approved.

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

Brent J. Fields  
Secretary