

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82805 / March 5, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18384

In the Matter of

EDWIN SHAW, LLC

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, 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 Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Edwin Shaw, LLC (“Edwin Shaw” 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it 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 Sections 15(b) and 21C of the Securities Exchange Act of 1934, 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 finds that:

Respondent

1. Edwin Shaw is a New York limited liability company, headquartered in New York, New York. At all relevant times, Edwin Shaw was engaged in the business of facilitating foreign investment in the United States. Respondent has never registered with the Commission as a broker-dealer.

Other Relevant Entities and Individual

2. The “Issuer” is a New York limited liability company, headquartered in Long Island City, New York. At all relevant times, the Issuer was engaged in the taxi and livery business in the New York City metropolitan area. The Issuer raised funds by offering membership interests in the limited liability company (the “LLC Membership Interests”) for sale to various domestic and foreign investors.

3. The “Managing Member” is a New York limited liability company, headquartered in Long Island City, New York. The Managing Member is the majority owner and managing member of the Issuer and operates much of the Issuer’s taxi and livery business on behalf of the Issuer.

4. The “Edwin Shaw Principal” is an owner of and a member of Respondent, as well as the indirect majority owner of the Issuer and the Managing Member. During much of the relevant period, the Edwin Shaw Principal also served as the executive chairman of the Managing Member, the most senior position in the company, with control over all of the company’s day-to-day affairs.

The EB-5 Investments

5. In 1990, the United States Congress created the Immigrant Investor Program (the “Program”), also known as “EB-5,” to stimulate job creation by incentivizing capital investment by foreign investors. Under the terms of the program, a foreign investor may obtain an EB-5 visa if she or he invests \$1 million (or \$500,000 in certain geographic areas) in a new commercial enterprise that creates or preserves at least 10 full-time jobs for qualified U.S. workers.

6. In or about April 2014, the Issuer sought to raise funds by selling LLC Membership Interests to foreign investors desirous of applying for an EB-5 visa.

7. On behalf of the Issuer, the Managing Member engaged Edwin Shaw to market the LLC Membership Interests to prospective investors.

8. From approximately April 2014 through March 2017, Edwin Shaw, through the Edwin Shaw Principal, identified and facilitated purchases of LLC Membership Interests by more than 30 foreign investors. The Edwin Shaw Principal facilitated the investments by meeting with prospective investors in the United States, explaining the investment terms to the prospective investors, providing them with substantial information about the Issuer’s business, explaining potential exit strategies, and/or referring the prospective investors to legal counsel.

9. At all times Edwin Shaw facilitated transactions in the LLC Membership Interests, it was not registered as a broker or dealer with the Commission.

10. The Edwin Shaw Principal negotiated an administrative fee with each investor who ultimately decided to invest in the project. The fees, which ranged from \$5,000 to as much as \$50,000, were payable to the Managing Member. The administrative fee was intended to compensate the Managing Member for its costs in marketing the LLC Membership Interests.

11. The Edwin Shaw Principal, in his capacity as the indirect owner and executive chairman of the Managing Member, directed the Managing Member's controller to issue checks to Edwin Shaw as compensation for Edwin Shaw's services in effecting the sale of the LLC Membership Interests. The payments to Edwin Shaw were funded by the administrative fees paid by the investors and, in many cases, the amounts of the payments corresponded directly to the administrative fees that had recently been received from investors.

12. Edwin Shaw used approximately \$400,000 of the funds to pay employees and consultants, make distributions to the Edwin Shaw Principal, and make car payments on behalf of the Edwin Shaw Principal.

13. In or about August 2016, the Managing Member's bank asked the Managing Member to provide documentation concerning the payments to Edwin Shaw, including any contract governing the relationship. No such contract existed. The Managing Member thereafter executed a written contract with Edwin Shaw, which was backdated to April 2014. The agreement, which the Managing Member provided to the bank, set forth a flat fee structure for Edwin Shaw's services that did not accurately reflect the actual payments, which were based on the available administrative fee proceeds.

14. As a result of the conduct described above, Respondent willfully¹ violated Section 15(a)(1) of the Exchange Act, which makes it unlawful for any broker or dealer "to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security" unless such broker or dealer is registered in accordance with Section 15(b) of the Exchange Act.

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, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

¹ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

A. Respondent Edwin Shaw cease and desist from committing or causing any violations and any future violations of Section 15(a) of the Exchange Act.

B. Respondent Edwin Shaw is censured.

C. Respondent Edwin Shaw shall, within 10 days of the entry of this Order, pay disgorgement of \$400,000, prejudgment interest of \$ 54,209.20, and a civil monetary penalty of \$90,535 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and/or 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Edwin Shaw, LLC as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate Director, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York 10281.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed

an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary