

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4940 / June 13, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18540

In the Matter of

ERIC ERB

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 Eric Erb (“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 on or behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in paragraph III.2 below, and 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. From at least March 2014 through February 2017, Erb served as the principal and chief compliance officer of Erb Capital Management, LLC, an investment adviser, where he solicited investments in two entities he created, Erb Arbitrage Opportunity, Ltd. and Erb Arbitrage Opportunity Fund, L.P. (together "the Erb Entities"). Erb, age 40, is a resident of Lindenhurst, New York.

2. On August 7, 2017, Erb pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 before the United States District Court for the Eastern District of New York, in United States v. Eric Erb, Case No. 17-CR-413. On April 13, 2018, a judgment in the criminal case was entered against Erb. He was sentenced to fifty-seven months in prison, three years of supervised release, and ordered to pay restitution of approximately \$5.4 million.

3. The count to which Erb pled guilty alleged that Erb raised over \$5 million from advisory clients, telling them that he would only invest their funds according to their instructions, but that between January 2016 and February 2017 he instead misappropriated over \$3 million from them for his and the Erb Entities' benefit.

IV.

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

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