

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5301 / July 16, 2019

INVESTMENT COMPANY ACT OF 1940
Release No. 33557 / July 16, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19252

In the Matter of

HANA WOOSUK BYUN,
a/k/a HANA KEVIN BYUN

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO 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 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 Hana Woosuk Byun a/k/a Hana Kevin Byun (“Byun” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Byun 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, which are admitted, and except as provided herein in Section V, Byun consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to 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 finds that:

Summary

Denali Investors, LLC ("Denali Investors") was an unregistered investment advisor solely owned and operated by Byun. In May and June 2016, Byun made unauthorized withdrawals of approximately \$77,000 from one of the funds Denali Investors managed and used the money to pay his personal expenses. The withdrawals were not authorized by the fund's operating documents.

Respondent

1. **Byun**, age 43, is a resident of Great Neck, New York. Byun was the founder, sole owner and managing partner of Denali Investors, and managed the day-to-day operations of Denali Investors. Byun once held a Series 7 securities license but was not registered in any capacity at the time of the events described herein.

Other Relevant Entities

2. **Denali Investors** is a Delaware limited liability company located in New York, New York. At all relevant times, Denali Investors operated as an investment adviser. Denali Investors was not registered with the Commission in any capacity. Denali Investors was the investment manager of Denali Investors Master Fund LP (the "Master Fund") and two feeder funds that invested in the Master Fund, Denali Investors Offshore Limited ("Denali Offshore"), and Denali Investors Accredited Fund LP ("Denali U.S.") (collectively the "Denali Funds"). In May and June 2016, Denali Investors had assets under management of between \$6.3 and \$7.2 million.

3. **Denali Offshore** was incorporated in June 2007 as a business company under the laws of the British Virgin Islands ("BVI"). Its registered office was located in the BVI. Money raised by Denali Offshore was invested in the Master Fund. Byun was the sole member of Denali Offshore's Board of Directors.

4. **Denali U.S.** was a Delaware limited partnership organized in June 2007. It was located in the same New York office as Denali Investors. Money raised by Denali U.S. was invested in the Master Fund. Byun was the sole member of Denali U.S.'s Board of Directors.

5. **The Master Fund** was a BVI limited partnership organized in August 2007. Denali Investors directed the Master Fund's investing and trading activities.

6. **Denali Investors GP, LLC, ("Denali GP")** a limited liability company organized under the laws of Delaware in August 2007 and was the general partner of the Master Fund, Denali Offshore, and Denali U.S. Byun was the sole principal of Denali GP.

Byun Misappropriates Fund Assets

7. The private placement memoranda for Denali Offshore and Denali U.S. stated that for each calendar quarter, Denali Investors would be entitled to a management fee equal to three-eighths of one percent (0.375%) of each fund's beginning value as defined in each fund's limited partnership agreement.

8. The private placement memoranda for Denali Offshore and Denali U.S. also stated that Denali GP would receive a 25% "Incentive Allocation" based on the amount of each fund's net realized and net unrealized capital appreciation during each fiscal year in excess of a specified hurdle rate.

9. In May and June 2016, Byun made five withdrawals totaling \$77,424.02 from the Master Fund. These withdrawals were not management fees or Incentive Allocations due to Denali Investors and were not otherwise authorized. Byun used the \$77,424.02 to pay personal expenses.

10. After the fund administrator discovered the unauthorized withdrawals, Byun, on behalf of Denali Investors, entered into an agreement with the fund administrator to repay the unauthorized withdrawals - which the fund administrator referred to as a "loan" from the Master Fund - plus five percent interest. This repayment obligation was memorialized in a letter dated December 9, 2016, in which Byun, on behalf of Denali Investors, agreed, among other things, to repay the unauthorized withdrawals by July 1, 2017. The agreement further provided that any performance fees and a portion of the monthly management fees due to Denali Investors would be used to reimburse the Master Fund. Ultimately, the Master Fund entered the balance due to fund from the "loan" on its balance sheet as an asset of the fund.

11. Denali Investors failed to meet its repayment obligations by July 1, 2017. As of that date, the balance due was approximately \$63,000. On July 16, 2017, Byun, on behalf of Denali Investors, sent a letter to the fund administrator promising to pay the balance due by January 1, 2018. Denali Investors failed to meet the January 1, 2018 deadline. As of that date, the balance due was essentially unchanged at \$62,612. On February 15, 2018, Byun, on behalf of Denali Investors, then agreed to repay the remaining balance of the unauthorized withdrawals (which as of January 31, 2018 had been reduced to approximately \$53,000) in full by June 30, 2018. Denali Investors also failed to meet that deadline.

12. On March 28, 2019, funds were wired to the Master Fund to fully repay the balance due for the unauthorized withdrawals, plus five percent interest.

13. Denali Investors is winding down the Denali Funds and will cease operations once the Denali Funds are closed.

Violations

14. As a result of the conduct described above, Byun willfully violated Sections 206(1)

and 206(2) of the Advisers Act, which make it unlawful for any investment adviser, directly or indirectly, to (1) “employ any device, scheme, or artifice to defraud any client or prospective client” or (2) “engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.”

IV.

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

Accordingly, pursuant to 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. Byun cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act.

B. Byun be, and hereby is:

barred from association with an investment adviser, broker, dealer, 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,

with the right to apply for reentry after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by Byun 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 Byun, 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. Byun shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$50,000.00 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 31 U.S.C. §3717.

E 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 Byun 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 S. Mehraban, Division of Enforcement, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, New York 10281.

F. 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, Byun agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Byun's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Byun agrees that he 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Byun, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Byun under this Order or any other judgment, order, consent order, decree or settlement

agreement entered in connection with this proceeding, is a debt for the violation by Byun of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary