

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5303 / July 18, 2019

INVESTMENT COMPANY ACT OF 1940
Release No. 33561 / July 18, 2019

ADMINISTRATIVE PROCEEDING
File No. 3- 19257

In the Matter of

SWAPNIL REGE,

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 Swapnil Rege (“Rege” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“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, Respondent 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 the Offer, the Commission finds¹ that:

Summary

1. This matter involves Respondent Rege's mispricing of investments for a private fund for which he served as a portfolio manager, resulting in artificially inflated fund profits, an overstatement of the fund's monthly net asset value in periodic statements to fund investors, and the charging of excess management fees to the fund. Rege also engaged in certain deceptive acts to cover up his mispricing. The mispricing resulted in Rege receiving \$600,000 in excess compensation from his employer, which was the adviser to the fund (the "Fund Adviser").

2. The mispricing occurred because of Rege's use of inconsistent valuation methods for similar assets. From June 2016 through April 2017, Rege used different discount curves to arrive at the net present value of long and short positions in certain swaps and options on interest rate swaps ("swaptions") that otherwise had similar characteristics and thus should have had offsetting values. Rege's use of the different discount curves instead resulted in the booking of unsubstantiated profits in the fund's accounting records. Rege did not have authorization from the Fund Adviser to use the different discount curves. The Fund Adviser ultimately fired Rege, liquidated the fund, revised the fund's valuations, and reimbursed excessive fund management fees attributable to Rege's mispricing.

3. By virtue of his conduct, Rege aided and abetted and caused the Fund Adviser's violations of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

Respondent and Other Relevant Entities

4. Rege is 44 years old and resides in North Brunswick, New Jersey. From March 2015 to April 2017, Rege was employed as a portfolio manager with the Fund Adviser. On April 25, 2017, the Fund Adviser terminated Rege. Previously, Rege was a registered representative of two broker-dealers registered with the Commission, first from January 2003 to May 2014, and then from June 2014 to November 2014. Both broker-dealers terminated Rege. Rege held Series 7 and 63 licenses.

5. The Fund Adviser is a Delaware limited liability company with a principal place of business in Darien, Connecticut. On October 12, 2012, the Fund Adviser registered with the

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Commission as an investment adviser. On March 27, 2018, the Fund Adviser filed to withdraw its registration.

6. Beginning in 2012, the Fund Adviser provided investment advisory services to private funds, including one fund (the “Fund”) for which Rege was one of several portfolio managers. The Fund was organized in 2012 as a Cayman Islands limited partnership. As of December 31, 2016, the Fund Adviser reported that the Fund had gross assets of approximately \$375 million. The Fund was a “pooled investment vehicle,” as defined in Advisers Act Rule 206(4)-8(b). The Fund claimed exemption from registration with the Commission under Section 3(c)(7) of the Investment Company Act. In April 2017, the Fund Adviser ceased its operations and began to liquidate the Fund.

Facts

Fund Investments and Valuation

7. The Fund primarily invested in structured products such as mortgage-backed and other asset-backed securities, and fixed income instruments. The Fund used interest rate products and derivatives for hedging purposes.

8. The terms of the management of the Fund were set forth in the Fund’s private placement memorandum (“PPM”) as well as in limited partnership agreements with investors in the Fund. The Fund Adviser also had written policies and procedures governing its operations and the management of the Fund.

9. The Fund’s PPM provided that non-publicly traded assets would be fair valued using market quotations from relevant sources and in accordance with GAAP and with the Fund Adviser’s written valuation policies and procedures. The Fund Adviser’s written valuation procedures provided various pricing sources for different asset classes.

Rege’s Role in Managing Fund Investments

10. In 2015, the Fund Adviser wanted to expand the Fund’s trading in interest rate products. In March 2015, the Fund Adviser hired Rege to manage the trading of interest rate products for the Fund. Between 2015 and 2017, Rege was the Fund’s primary “rates” trader and mainly traded interest rate swaps and swaptions. By the end of 2016, Rege’s capital allocation in his rates book was approximately \$70 million.

11. The Fund Adviser paid a salary and bonus to Rege. In 2015, Rege’s trading activities in the Fund generated approximately \$4 million in profits, and Rege received a bonus of \$208,000 from the Fund Adviser based on the performance of his portfolio in the latter half of 2015.

12. For 2016, the Fund Adviser agreed to pay a bonus to Rege of 8% of his profits.

Rege's Inflated Valuations

13. As of September 2015, at Rege's suggestion and after discussion, the Fund Adviser stopped using counterparty quotes and began using a model to determine fair value pricing for interest rate swaps and swaptions in the Fund. The model had various inputs, which the Fund Adviser could alter. However, the Fund Adviser instructed Rege and other portfolio managers and traders to use the model's default inputs and settings.

14. To model the prices of interest rate swaps and swaptions, the Fund Adviser discounted expected future cash flows to arrive at a net present value ("NPV") on the measurement date. The Fund Adviser's pricing model included a choice of different discount curves, but the Fund Adviser used the model's default discount curve setting.

15. From June 2016 through April 2017 (the "relevant period"), Rege changed the default discount curve setting in the Fund Adviser's pricing model when valuing certain swaps and swaptions positions. Generally, Rege used the model's default discount curve for short positions, and a different discount curve for long positions. Rege used these differing discount curves for positions that otherwise had identical or substantially similar underlying terms, and thus the Fund Adviser's records should have reflected offsetting or nearly offsetting values for the positions. There was no economic justification for Rege's use of different discount curves for valuing similar instruments. Rege's use of different discount curves had the effect of creating artificial gains for what otherwise should have been offsetting or nearly offsetting positions, which led the Fund Adviser to record profits for the Fund that did not actually exist.

16. For example, on December 29, 2016, Rege entered into both long and short positions in swaptions that otherwise had similar underlying terms. Rege used the default discount curve to value the short position and a different discount curve to value the long position. Rege thereby caused the Fund Adviser to record an immediate, single-day profit for these trades of approximately \$7 million in the internal accounting records for the Fund, when these offsetting positions should have reflected a net market value at or close to \$0.

17. Rege did not tell anyone at the Fund Adviser that he was using anything other than the model's default settings – including the model's default discount curve – for pricing swaps and swaptions. The Fund Adviser did not authorize Rege to alter the discount curve setting, or any other default setting, in the model.

18. Based on information in the Fund Adviser's records, the Fund's third party administrator prepared and sent monthly account statements to Fund investors. During the relevant period, these account statements reflected overstated investor returns due to Rege's mispricing. During the relevant period, the Fund Adviser also prepared and sent monthly letters to fund investors showing the Fund's monthly and year-to-date returns, which were also overstated.

19. Rege knew that the Fund Adviser provided his inflated valuations to the Fund's third party administrator for purposes of calculating the Fund's monthly net asset value ("NAV"), which Rege knew or was reckless in not knowing was reported to Fund investors in periodic account statements and letters.

20. Rege also knew that the Fund's NAV was the basis for the Fund Adviser's calculation of the Fund's management fees and performance fees. Therefore, Rege knew or was reckless in not knowing that his inflated valuations led to the overcharging of fees to the Fund.

21. Rege personally stood to benefit from his inflated valuations because his annual bonus was tied to the performance of the Fund investments he managed. Because of Rege's inflated valuations, his portfolio reflected gains of more than \$44 million for 2016. Most of these gains were recorded in the second half of 2016, after he began using the different discount curves. Rege's expected bonus for 2016 was approximately \$3.6 million. On December 31, 2016, the Fund Adviser paid \$600,000 of the expected bonus to Rege from the Fund Adviser's bonus pool (not from the Fund's assets) and planned to pay the remainder at a later date and upon the completion of the Fund's annual audit.

Rege's Deceptive Conduct to Hide Inflated Valuations

22. Between January and April 2017, Rege engaged in several deceptive acts to support his mispricing, described below. These deceptive acts prolonged the period during which Fund valuations were artificially inflated and overstated returns were reported to Fund investors.

23. In early January 2017, the Fund Adviser's CEO discovered that Rege was valuing certain positions using a discount curve other than the model's default discount curve. The CEO asked Rege about his practice of using the default discount curve in some instances and a different discount curve in other instances. Rege falsely told the Fund Adviser that this was an accepted practice that led to accurate market valuations, and that quotations from counterparty dealers would support the valuations Rege derived by using the differing discount curves.

24. From January through April 2017, the Fund Adviser's CEO asked Rege to take various steps to confirm his valuations and the validity of his discounting methodology. The CEO asked Rege to exit certain positions so the Fund Adviser could compare actual transaction prices to the internal model valuations. The CEO also asked Rege to obtain broker quotes for positions the Fund continued to hold.

25. Rege engaged in multiple deceptive trades to cover up the fact that he could not exit existing positions at prices that matched his inflated valuations. Specifically, contrary to instructions from the Fund Adviser's CEO to exit completely out of certain positions, Rege often would enter into new positions at the same time as part of a "package" trade with a single counterparty. Counterparty confirmations for these package trades would show NPVs for the

entire package. Trading multiple instruments simultaneously in a package allowed Rege to shift losses from existing positions onto newly-entered positions and to hide the overstated values he had caused the Fund Adviser to record and report in monthly statements to Fund investors.

26. Rege also engaged in deceptive acts regarding the broker quotes the Fund Adviser asked him to obtain. On multiple occasions, Rege asked brokers to base their quotes on certain assumptions and deal terms he provided to them, which ensured that the brokers' prices matched the prices Rege had recorded using the inconsistent discount curves in the valuation model. Further, Rege redacted and provided incomplete versions of his communications with external brokers to the Fund Adviser, omitting the assumptions and deal terms on which the brokers based their prices. Rege thus concealed that he had manipulated the parameters for the broker quotes, rather than obtaining independent market quotes, and consequently the Fund Adviser continued to report returns to Fund investors that were based on Rege's artificially inflated prices.

Fund Adviser's Response to Discovery of Rege's Misconduct

27. In early April 2017, after realizing that Rege's discounting methodology was not supportable the Fund Adviser restricted Rege's trading and his access to the Fund Adviser's electronic systems, and it terminated Rege soon after that.

28. The Fund Adviser determined that Rege's inflated rates book valuations had caused the Fund's overall value to be overstated. The Fund Adviser liquidated the Fund's investments and re-calculated the Fund's valuations during the relevant period.

29. The Fund Adviser calculated that it overcharged \$577,000 in Fund management fees in 2016 and 2017 attributable to Rege's inflated valuations, and the Fund Adviser reimbursed this amount to the Fund. The Fund Adviser also reimbursed the Fund for \$123,000 in excess payments to redeeming investors during the period of Rege's mispricing. The Fund Adviser also accrued, but did not ultimately collect, incentive fees of \$9.6 million for 2016 and \$2.7 million for 2017 attributable to inflated profits from Rege's mispricing.

Violations

30. As a result of the conduct described above, Rege willfully aided and abetted and caused the Fund Adviser's violations of Section 206(1) of the Advisers Act, which prohibits any investment adviser from employing any device, scheme, or artifice to defraud any client or prospective client.

31. As a result of the conduct described above, Rege willfully aided and abetted and caused the Fund Adviser's violations of Section 206(2) of the Advisers Act, which prohibits any investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

32. As a result of the conduct described above, Rege willfully aided and abetted and caused the Fund Adviser's violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which make it unlawful for any investment adviser to a pooled investment vehicle to "[m]ake any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle" or to "engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle."

IV.

In view of the foregoing, the Commission deems it appropriate in the public interest to impose the sanctions agreed to in Respondent'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. Respondent cease and desist from committing or causing any violations and any future violations of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

B. Respondent be, and hereby is:

barred from association with any 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 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.

D. Respondent shall pay disgorgement of \$600,000, prejudgment interest of \$49,170.84, and a civil penalty of \$100,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934. Payment shall be made in the following installments: Respondent shall pay \$300,000 within 14 days after this Order is entered, and Respondent shall pay \$449,170.84 plus accrued interest within 360 days after this Order is entered. Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 for the disgorgement and pursuant to 31 U.S.C. § 3717 for the penalty. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

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 Respondent 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 Robert Baker, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, MA 02110.

E. 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, Respondent shall not argue that Respondent is entitled to, nor shall Respondent 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 Respondent 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 Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent 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 Respondent 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