

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5448 / February 24, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19706

In the Matter of

**LONE STAR VALUE
MANAGEMENT LLC AND
JEFFREY EBERWEIN**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, PURSUANT TO
SECTIONS 203(e) AND 203(k) OF THE
INVESTMENT ADVISERS 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(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Lone Star Value Management LLC (“Lone Star”) and Jeffrey Eberwein (“Eberwein”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, the Respondents have submitted Offers of Settlement (“Offers”) 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, the Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers 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

1. In August 2014 and November 2014, Lone Star, while reporting to the Commission as an exempt reporting investment adviser, effected 19 interfund cross trades between two funds Lone Star managed, and, in June 2015, while registered with the Commission as an investment adviser, effected 2 trades between a fund Lone Star managed and a separately managed account (the “SMA”) for which Lone Star served as an investment adviser. These 21 trades were made on a principal basis because Eberwein’s ownership stake in the Lone Star fund involved in each of these trades was more than 35% during the relevant time period. Lone Star failed to disclose in writing that it engaged in these principal transactions and did not obtain client consent before the completion of each of the transactions as required under Section 206(3) of the Advisers Act. Eberwein, Lone Star’s sole and managing member, CEO, portfolio manager and sole owner, caused Lone Star’s violations of Section 206(3) of the Advisers Act.

2. Lone Star also failed to implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder, a violation of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder. Eberwein caused Lone Star’s violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondents

3. Lone Star is a Connecticut LLC headquartered in Old Greenwich, CT. Lone Star reported to the Commission as an exempt reporting investment adviser from October 2013 to March 2015. On March 31, 2015, Lone Star registered with the Commission as a non-exempt investment adviser and, on April 2, 2018, withdrew from registration. From August 2014 to June 2015, Lone Star had approximately five employees and assets under management of approximately \$150 million. Lone Star was the investment manager to three funds: Lone Star Value Investors, LP (“Investors Fund”), Lone Star Value Co-Invest I, LP (“Co-Invest I”), and Lone Star Value Co-Invest II, LP (“Co-Invest II Fund”). Lone Star Value Investors GP, LLC (“General Partner”) was the general partner of each of these funds.

4. Eberwein, age 49, resides in Old Greenwich, CT, and is the founder, sole managing member, and CEO, and was the portfolio manager of Lone Star funds during the relevant period. Eberwein is also manager and sole member of Lone Star’s General Partner. During the relevant period, Eberwein made all investing and trading decisions for the Lone Star funds and the SMA.

Facts

5. In October 2013, Eberwein started Lone Star and created the Investors Fund. In 2013 and 2014, Eberwein invested approximately \$35 million of his own money into the Investors Fund and over the course of a year received funds from approximately 39 other investors.

6. In April 2014, Eberwein created the Co-Invest II Fund and around August 2014 received funds from approximately 19 investors. In August 2014 and November 2014, Lone Star effected 19 cross trades between the Investors Fund and the Co-Invest II Fund in the common

stock of Issuer A. Because Eberwein consistently owned more than 35% of the Investors Fund, these trades were principal trades. Lone Star did not disclose the trades in writing to the funds or to the funds' investors and Lone Star did not get client consent to make the trades.

7. In June 2015, Lone Star effected two trades in the common stocks of Issuer B and Issuer C between the Investors Fund and the SMA for which Lone Star served as an investment adviser. Lone Star did not disclose in writing to the Investors Fund or to the SMA's investor that Lone Star acted in a principal capacity for these trades and Lone Star did not get the clients' consents to make the trades.

8. By initiating these principal transactions while aware that Lone Star was not disclosing that it was acting as principal for each such transaction to clients in writing before the completion of each transaction and Lone Star was not receiving client consent on a transaction-by-transaction basis, Eberwein caused Lone Star's violations of Advisers Act Section 206(3).

9. After becoming a registered investment adviser, Lone Star also failed to implement written policies and procedures reasonably designed to satisfy the written disclosure and client consent requirements of Section 206(3) of the Advisers Act.

10. Eberwein, as Lone Star's founder, sole managing member, CEO, and portfolio manager, was responsible for ensuring that Lone Star conducted principal transactions in compliance with the Advisers Act and implemented policies and procedures regarding such principal transactions. Although Lone Star had written policies and procedures requiring Lone Star to disclose to its clients in writing that Lone Star was engaged in principal transactions and to receive transaction-specific client approval for each principal transaction, Eberwein failed to have Lone Star implement this policy when he initiated the two principal transactions in June 2015 discussed above.

Violations

11. Section 206(3) of the Advisers Act prohibits an investment adviser from engaging in or effecting a transaction on behalf of a client while acting either as a principal for its own account, or as broker for a person other than the client, without disclosing in writing to the client, before the completion of the transaction, the adviser's role in the transaction, and obtaining the client's consent.

12. Section 206(4) and Rule 206(4)-7(a) thereunder, require, among other things, that investment advisers registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules promulgated thereunder.

13. As a result of the conduct described above, Lone Star willfully violated, and Eberwein caused Lone Star's violations of, Sections 206(3) and 206(4) of the Advisers Act and Rule 206(4)-7.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondents cease and desist from committing or causing any violations and any future violations of Sections 206(3) and 206(4), and Rule 206(4)-7 promulgated thereunder.

B. Lone Star is censured.

C. Respondent Lone Star shall pay a civil money penalty in the amount of \$100,000 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). Payment by Respondent Lone Star shall be made in the following installments: (1) \$25,000 within 21 days of the entry of this Order; (2) \$25,000 within 180 days of the entry of this Order; (3) \$25,000 within 270 days of entry of this Order; and (4) \$25,000 within 360 days of entry of this Order. If timely payments are not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Prior to making the final payment set forth herein, Respondent Lone Star shall contact the staff of the Commission for the amount due. If Respondent Lone Star 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.

D. Respondent Eberwein shall pay a civil money penalty in the amount of \$25,000 for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment by Respondent Eberwein shall be made in the following installments: (1) \$6,250 within 21 days of the entry of this Order; (2) \$6,250 within 180 days of the entry of this Order; (3) \$6,250 within 270 days of entry of this Order; and (4) \$6,250 within 360 days of entry of this Order. If timely payments are not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Prior to making the final payment set forth herein, Respondent Eberwein shall contact the staff of the Commission for the amount due. If Respondent Eberwein 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.

E. Payments must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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 Lone Star or Eberwein 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 Glenn S. Gordon, Associate Regional Director, Miami Regional Office, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131.

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, Respondents agree that in any Related Investor Action, Respondents shall not argue that Respondents are entitled to, nor shall Respondents benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of civil penalties in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agrees that they 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 Eberwein, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Eberwein 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 Eberwein 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