UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6399 / September 5, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21608

In the Matter of **The Eideard Group, LLC** **Respondent.**	**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 The Eideard Group, LLC ("Eideard" 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 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[1] that:

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

Summary

1. Eideard, a registered investment adviser, is an investment adviser to private funds. This matter concerns Eideard's violations of the federal securities laws in connection with private funds that Eideard advised. Specifically, Eideard failed to maintain securities of certain private funds that it advised with a qualified custodian. Moreover, Eideard failed to conduct and timely distribute annual audited financial statements prepared in accordance with Generally Accepted Accounting Principles ("GAAP") to investors in certain private funds that it advised. These failures resulted in violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder, commonly referred to as the "custody rule."

Respondent

2. The Eideard Group, LLC is a New Hampshire limited liability company with its principal place of business in Bedford, New Hampshire. Eideard has been registered with the Commission as an investment adviser since March 14, 2006. On its Form ADV dated March 22, 2023, Eideard reported that it had approximately $263,297,550 in regulatory assets under management, including $107,329,535 managed in pooled investment vehicles.

Other Relevant Entities

3. White Oak Acorn Properties, LP ("White Oak Fund) is a private fund formed as a limited partnership. At all relevant times, White Oak Real Estate Holdings, LLC, an entity controlled by Eideard, was the general partner of the White Oak Fund. Eideard has been the investment adviser to White Oak Fund since July 2007.

4. R&A Venture Capital, LLC ("R&A Venture I Fund") is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of R&A Venture I Fund. Eideard has been the investment adviser to R&A Venture I Fund since November 2009.

5. R&A Venture Capital II, LLC Fund ("R&A Venture II Fund") is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of R&A Venture II Fund. Eideard has been the investment adviser to R&A Venture II Fund since May 2010.

6. R&A Venture Capital III, LLC ("R&A Venture III Fund") is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of R&A Venture III Fund. Eideard has been the investment adviser to R&A Venture III Fund since April 2012.

7. Eideard Venture Capital I, LLC ("Eideard Venture I Fund') is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of Eideard Venture I Fund. Eideard has been the investment adviser to Eideard Venture I Fund since July 2013.

8. Eideard Venture Capital II, LLC ("Eideard Venture II Fund') is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of Eideard

Venture II Fund. Eideard has been the investment adviser to Eideard Venture II Fund since May 2015.

9. Eideard Venture Capital III, LLC ("Eideard Venture III Fund') is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of Eideard Venture III Fund. Eideard has been the investment adviser to Eideard Venture III Fund since September 2016.

10. Eideard Venture Capital IV, LLC ("Eideard Venture IV Fund," and, collectively with White Oak Fund, R&A Venture I Fund, R&A Venture II Fund, R&A Venture III Fund, Eideard Venture I Fund, Eideard Venture II Fund, and Eideard Venture III Fund, the "Funds") is a private fund formed as a limited liability company. At all relevant times, Eideard was the manager of Eideard Venture IV Fund. Eideard has been the investment adviser to Eideard Venture IV Fund since April 2019.

Eideard Failed to Maintain Client Securities with a Qualified Custodian

11. The custody rule requires that registered investment advisers who have custody of client funds or securities implement an enumerated set of requirements to prevent the loss, misuse, or misappropriation of those assets.

12. An investment adviser has custody of client assets if it holds, directly or indirectly, client funds or securities, or if it has the authority to obtain possession of those assets. *See* Advisers Act Rule 206(4)-2(d)(2). Eideard or a related person of Eideard has served as the managing member or general partner of the Funds at all relevant times, and has had the authority to make decisions for, and act on behalf of, the Funds. Eideard is therefore deemed to have custody of each Fund's assets as defined in Advisers Act Rule 206(4)-2.

13. An investment adviser with custody of client assets must, among other things: (i) ensure that a qualified custodian maintains the client assets; (ii) notify the client in writing of accounts opened by the adviser at a qualified custodian on the client's behalf; (iii) have a reasonable basis for believing that the qualified custodian sends account statements at least quarterly to clients, except if the client is a limited partnership or limited liability company for which the adviser or a related person is a general partner or managing member, the account statements must be sent to each limited partner or member; and (iv) ensure that client funds and securities are verified by actual examination each year by an independent public accountant at a time chosen by the accountant without prior notice or announcement to the adviser. *See* Advisers Act Rule 206(4)-2(a)(1)-(5).

14. In 2018 through 2021 with respect to seven private funds, White Acorn Fund, R&A Venture I Fund, R&A Venture II Fund, R&A Venture III Fund, Eideard Venture I Fund, Eideard Venture II Fund, and Eideard Venture III Fund, and in 2019 through 2021 with respect to one private fund, Eideard Venture IV Fund, Eideard did not maintain client securities with a qualified custodian as required by Advisers Act Rule 206(4)-2(a)(1).

15. With respect to the securities of these Funds, Eideard purported to rely on the exception to the qualified custodian requirement that is available for certain privately offered securities. That exception, contained in paragraph (b)(2) of the custody rule, only extends to pooled investment vehicles, including these Funds, when such pooled investment vehicles are audited and audited financial statements are distributed as described under Advisers Act Rule 206(4)-2(b)(4) ("Privately Offered Securities Exception"). In 2018 through 2021, Eideard did not obtain an audit of each of the Funds and distribute audited financials of the Funds as required by the Privately Offered Securities Exception. Eideard did not satisfy the requirements of the exception and was required to comply with Advisers Act Rule 206(4)-2(a)(1), which it failed to do. Furthermore, Eideard failed to comply with the requirements set forth in Rule 206(4)-2(a)(2), (3), and (5). [2]

Violations

16. As a result of the conduct described above, Eideard willfully[3] violated Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder.

IV.

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

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

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder.

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[2] The custody rule provides an alternative to complying with the requirements of Advisers Act Rule 206(4)-2(a)(2), (3) and (4) for investment advisers to limited partnerships or other types of pooled investment vehicles. The custody rule provides that an investment adviser "shall be deemed to have complied with" the independent verification requirement and is not required to satisfy the notification and account statements delivery requirements with respect to a fund if the fund is subject to audit at least annually and "distributes [the fund's] audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners . . . within 120 days of the end of [the fund's] fiscal year" ("Audited Financials Alternative"). See Advisers Act Rule 206(4)-2(b)(4). The accountant performing the audit must be an independent public accountant that is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board. See Advisers Act Rule 206(4)- 2(b)(4)(ii). An investment adviser to a limited partnership or limited liability company that fails to meet the requirements of the Audited Financials Alternative to timely distribute audited financial statements prepared in accordance with GAAP would need to satisfy all of the requirements of Rule 206(4)-2(a)(2)-(4) in order to avoid violating the custody rule.

[3] "Willfully," for purposes of imposing relief under Section 203(e) of the Advisers Act "'means no more than 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." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

B. Respondent is censured.

C. Respondent shall pay a civil penalty in the amount of $80,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to the Securities Exchange Act of 1934 Section 21F(g)(3). Payment shall be made in the following installments: $20,000 within 30 days of entry of this Order; $20,000 within 120 days of entry of this Order; $20,000 within 240 days of entry of this Order; and any remaining amount outstanding within 359 days of entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant 31 U.S.C. § 3717. 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 The Eideard Group, 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 Nikolay Vydashenko, Assistant Regional Director, Fort Worth Regional Office, Securities and Exchange Commission, 1801 Cherry Street, Suite 1900, Unit 18, Fort Worth, Texas 76102.

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.

Vanessa A. Countryman
Secretary