

RECEIVED  
MAR 07 2016  
OFFICE OF THE SECRETARY

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 76979 / January 27, 2016

ADMINISTRATIVE  
PROCEEDING File No. 3-17070

In the Matter of  
  
3C ADVISORS & ASSOCIATES,  
INC., STEPHEN JONES, and  
DAVID PROLMAN,  
  
Respondents.

ANSWER OF RESPONDENTS 3C  
ADVISORS & ASSOCIATES, INC.  
AND STEPHEN JONES

Respondents 3C Advisors & Associates, Inc. and Stephen Jones (collectively  
"Respondents"), answering for themselves and for no other Respondent, hereby answer the  
allegations of the Securities and Exchange Commission as follows:

**SEC'S ALLEGATION:**

**Summary**

From 2013 through the present, Jones and Prolman through their company 3C  
violated Section 15(a) of the Exchange Act by engaging in unregistered broker activity.  
Through 3C, Jones and Prolman solicited small- and medium-sized businesses by marketing  
"capital advisory services." In particular, 3C held itself out as "arrang[ing] private placement  
of debt and equity securities" and facilitating capital raises. 3C undertook extensive  
responsibilities for its customers including analyzing customers' financial needs,  
recommending and designing financing methods, playing a role in negotiations with capital  
sources, and making recommendations about proposed funding terms. Moreover, 3C's

engagement agreements provided that its customers pay performance fees which were calculated as a percentage of the capital raised, with greater potential payouts for equity investments. Thus, 3C falls within the definition of a “broker” because 3C is “engaged in the business of effecting transactions in securities for the account of others.” Jones and Prolman willfully aided and abetted and caused the firm’s violations of Section 15(a) of the Exchange Act, by engaging in such broker conduct through 3C without registering as or establishing an association with a registered broker-dealer.

**RESPONDENTS’ ANSWER:**

Respondents deny that 3C was also Respondent Prolman’s company and that 3C “held itself out as ‘arrang[ing] private placement of debt and equity securities’ and facilitating capital raises.” Respondents deny that 3C played a role in negotiations with capital sources or making recommendations about proposed funding terms. Respondents deny that all of 3C’s engagements required payment of a “performance fee.” Respondents deny that they violated Section 15(a) of the Exchange Act and that 3C falls within the definition of a “broker.” Respondents deny that Jones willfully aided and abetted and caused 3C’s violations of the Exchange Act, and deny any alleged requirement to register as a broker-dealer. Respondents deny for lack of information and belief as to any conduct by Prolman.

**SEC’S ALLEGATION:**

1. Respondent 3C is a California corporation headquartered in Rancho Santa Fe, California, which was launched in June 2010. 3C provides a range of consulting services to small- and mid-sized companies including the capital advisory services at issue in this action.

**RESPONDENTS’ ANSWER:**

Respondents deny that 3C is headquartered in Rancho Santa Fe, California. Respondents admit the allegations in paragraph 1.

**SEC’S ALLEGATION:**

2. Jones is a resident of Rancho Santa Fe, California. Jones founded 3C in June 2010 and is 3C’s senior managing director. Jones has never held any securities licenses. Prior to launching 3C, Jones performed valuation analysis, litigation support, and restructuring consulting for over two decades at several consulting firms. Jones’s positions at two of these firms, were within those firms’ registered broker-dealer segments, but he never obtained a securities license and did not perform any of the transactional and capital advisory services provided by those firms.

**RESPONDENTS' ANSWER:**

Respondent Jones denies that he is a resident of Rancho Santa Fe, California. Respondents deny that "Jones's positions at two of these firms, were within those firms' registered broker-dealer segments." Respondents admit the remaining allegations in paragraph 2.

**SEC'S ALLEGATION:**

3. Prolman is a resident of Del Mar, California. In June 2013, Prolman joined 3C as a senior managing director and leader of capital advisory services. Prolman has never held any securities licenses. Prior to joining 3C, Prolman had three decades' experience in providing consulting services including financial, operational and corporate management, capital finance, growth strategies, turnarounds, loan workouts, and bankruptcy reorganizations.

**RESPONDENTS' ANSWER:**

Respondents deny that Prolman "joined" 3C as a senior managing director. Respondents admit that Prolman was a leader of capital advisory services. Respondents deny the remaining allegations in paragraph 3 for lack of information and belief.

**SEC'S ALLEGATION:**

4. In June 2010, Jones organized 3C as a holding company with the goal of providing comprehensive consulting services through various sub-LLCs, each independently operated by consultants with whom Jones was affiliated. In addition to the valuation services and litigation consulting that Jones himself provided, he planned to have 3C offer "capital advisory services" under a sub-LLC known as the "Capital Advisory LLC."

**RESPONDENTS' ANSWER:**

Respondents deny for lack of information and belief and for vagueness that Jones was "affiliated" with other "consultants." Respondents admit the allegations in paragraph 4.

**SEC'S ALLEGATION:**

5. The capital advisory services business did not commence until Prolman joined the firm in June 2013, operating as a segment of 3C rather than as a separate LLC. Upon joining the firm, Prolman prepared a business plan for the capital advisory services segment, which included an "industry overview and competitive analysis" identifying six competing firms, all of which were registered broker-dealers.

**RESPONDENTS' ANSWER:**

Respondents admit the allegations in paragraph 5.

**SEC'S ALLEGATION:**

6. Since Prolman joined 3C, the firm has touted its capital advisory business segment. 3C has taken on at least five engagements to perform capital advisory services since Prolman's arrival, and has earned approximately \$160,000 in compensation for such services during this time frame.

**RESPONDENTS' ANSWER:**

Respondents deny for lack of information and belief that 3C has received \$160,000 in compensation for "capital advisory services." Respondents admit the remaining allegations in paragraph 6.

**SEC'S ALLEGATION:**

7. 3C has solicited customers for its capital advisory services online, in one-on-one presentations with prospective customers, and at industry conferences. 3C also has marketed its capital advisory services to law firms that would then introduce 3C to potential customers for the services.

**RESPONDENTS' ANSWER:**

Respondents deny for lack of information and belief and for vagueness as to "industry conferences." Respondents admit the remaining allegations in paragraph 7.

**SEC'S ALLEGATION:**

8. According to 3C's website and other marketing materials, under 3C's capital advisory services business segment, the firm offered broker services for its customers including private placement of debt and equity securities, acquisition financing, growth capital, recapitalizations, and restructuring.

**RESPONDENTS' ANSWER:**

Respondents deny that they ever offered "broker services." Respondents admit the remaining allegations in paragraph 8.

**SEC'S ALLEGATION:**

9. 3C's capital advisory proposals and agreements were based on standard language, initially prepared by Prolman at his prior firm and adopted by 3C. As with the firm's marketing materials, the agreements indicated that 3C was offering to perform broker services for its customers.

**RESPONDENTS' ANSWER:**

Respondents deny that they were offering to perform "broker servicers" for customers. Respondents deny for lack of information and belief, and for vagueness, that 3C's proposals and agreements were "based on standard language." Respondents admit that 3C's proposals and agreements were prepared by Prolman at his prior firm and then adopted by 3C.

**SEC'S ALLEGATION:**

10. For example, in August 2013, 3C initiated an engagement with Company A, an investment company, for purposes of "identifying and introducing you to total capital liquidity in an amount approaching \$35,000,000" in connection with an acquisition of a medical manufacturing company. 3C indicated it would "[f]ind and introduce [q]ualified [c]apital [s]ources," "assist[] you in the determination of an appropriate capital structure for the Company on a go forward basis," and "assist[] you in connection with the preparation and dissemination, as appropriate, of confidential materials for any potential or actual [t]ransaction."

**RESPONDENTS' ANSWER:**

Other than the identification of the potential customer as "Company A," Respondents admit the allegations in paragraph 10, except that 3C's engagement with this company was subsequently modified via another engagement agreement.

**SEC'S ALLEGATION:**

11. In the proposal for Company A and several of 3C's other engagements, 3C agreed to "assist[] you in all phases of the negotiation process, including establishment of price, terms and structure."

**RESPONDENTS' ANSWER:**

Other than the identification of the potential customer as "Company A," and without knowledge or admission as to the "other engagements," Respondents admit the allegations in paragraph 11.

**SEC'S ALLEGATION:**

12. 3C's agreements required capital advisory services customers to pay a combination of flat fee retainers and performance-based success fees, which entitled 3C to a percentage of any successful fund raising efforts. Certain of 3C's contracts assigned a higher percentage for the performance fee upon equity versus debt financing.

**RESPONDENTS' ANSWER:**

Respondents deny as to any "performance-based success fees." Respondents were paid a fee for an introduction to qualified funding sources. 3C's engagements also included an hourly-based compensation component, Respondents admit any remaining allegations in paragraph 12.

**SEC'S ALLEGATION:**

13. For example, one customer agreed to pay an initial retainer fee of \$15,000 along with a performance fee of 4% of the funded investment amount with respect to the issuance of any equity securities (which dropped to 2% if any debt instruments were issued).

**RESPONDENTS' ANSWER:**

Respondents deny the allegations in paragraph 13 for lack of information and belief.

**SEC'S ALLEGATION:**

14. At least one of 3C's capital advisory services engagements, an engagement for a restaurant franchising business, Company B, resulted in a successful debt financing arrangement for the customer with funds provided by a capital source identified by 3C. For the Company B engagement, 3C received \$125,000, of which \$90,000 constituted a performance fee amounting to roughly 1% of the total funding.

**RESPONDENTS' ANSWER:**

Respondents deny that \$90,000 of 3C's compensation was a "performance fee," but rather was for identifying and introducing a funding source. Other than the identification of a customer as "Company B," Respondents admit any remaining allegations in paragraph 14.

**SEC'S ALLEGATION:**

15. Between 2013 when Prolman joined 3C through 2014, 3C collected roughly \$160,000 in fees from five customers for its capital advisory services, including \$90,000 of which was transaction-based compensation. During that time frame, the firm received total revenue from its services of \$517,420.32. Thus, over a quarter of 3C's revenue during this period was generated through fees from its capital advisory engagements.

**RESPONDENTS' ANSWER:**

Respondents deny that the payments were "transaction-based compensation," but rather were for identifying and introducing a funding source. Respondents admit any remaining allegations in paragraph 15.

**SEC'S ALLEGATION:**

16. For each of its capital advisory services customers, 3C analyzed the customer's funding needs and advised the customer regarding funding options. For example, 3C, through Jones, prepared a document analyzing one of its customer's funding structure. 3C, through Prolman, also performed a review of that customer's overall financial condition in which Prolman commented on the customer's forecast model and supporting data for inconsistencies, missing data, and assumptions. Prolman also gave informal advice to 3C's customers regarding desired funding structure, potential return on investment for equity investments, and advice about the appropriate amounts of funding to seek.

**RESPONDENTS' ANSWER:**

Respondents deny the first sentence of paragraph 16. Respondents deny the remaining allegations in this paragraph for lack of information and belief.

**SEC'S ALLEGATION:**

17. For each of its capital advisory services customers, 3C also prepared materials to attract capital sources on behalf of its customers. This included creating marketing books with details about the customer and the customer's desired funding. 3C, through Prolman, also generated so-called "teasers," which contained summaries of the marketing books. For some of the engagements, 3C edited materials generated by the customer, and for other engagements, 3C drafted the materials.

**RESPONDENTS' ANSWER:**

Respondents deny the first and second sentences of paragraph 17. Respondents deny the third sentence for lack of information and belief. Respondents deny that they drafted "materials" for the customers. Respondents admit the remaining allegations in paragraph 17.

**SEC'S ALLEGATION:**

18. For at least two of its customers, 3C, through Prolman, also engaged in outreach to potential capital sources, including disseminating the marketing books and teasers described above. When Prolman sent the materials to potential capital sources, he targeted sources drawn from his industry contacts and from referrals from the intermediaries with which 3C collaborated. Prolman also conferred with the customers to identify and pre-screen potential capital sources that fit the funding goals. If the potential capital source expressed interest in the project, 3C's outreach also included facilitating introductions between the customer and the capital source. Prolman was present during meetings between customers and capital sources, and on at least one instance Prolman acknowledged responding to substantive questions from a potential capital source during such a meeting.

**RESPONDENTS' ANSWER:**

Respondents deny the allegations in paragraph 18 for lack of information and belief.

**SEC'S ALLEGATION:**

19. Finally, for at least two of its customers, 3C also played a role in negotiating terms of the funding. Capital sources corresponded with both the customer and Prolman while crafting potential deal terms during the two engagements. Even where 3C's personnel were not present during meetings with capital sources regarding deal terms, Prolman and Jones advised the customers as to the terms' advisability. 3C also corresponded with the capital sources separately from the customer during the course of negotiations to ascertain the status of the pending deal and shared these updates with the customer.

**RESPONDENTS' ANSWER:**

Respondents deny that 3C played a role in negotiating terms of funding and that Jones advised the customers as to the terms' advisability. Respondents admit that 3C corresponded with the capital sources separately from the customer during the course of negotiations to ascertain the status of the pending deal and shared these updates with the customer. Respondents deny for lack of information and belief as to any conduct by Prolman.



**SEC'S ALLEGATION:**

20. In October 2014, after receiving a subpoena from the Commission, 3C removed references to its capital advisory services from its website. However, after October 2014, the firm took on another capital advisory engagement raising capital for a distressed company.

**RESPONDENTS' ANSWER:**

Respondents admit that after October 2014, 3C was engaged by another customer, but not to raise capital, but only for an introduction and other tasks on an hourly basis. Respondents admit any remaining allegations in paragraph 20.

**SEC'S ALLEGATION:**

21. Additionally, after October 2014, Jones and Prolman sought advice from counsel regarding the need for registration. 3C, Jones, and Prolman took steps to sit for the Series 79 (investment banking representative) exam and obtain registered status by establishing an association with a registered firm. To date, however, 3C, Jones, and Prolman, remain unregistered and still have no association with any registered entity.

**RESPONDENTS' ANSWER:**

Respondents object to the first sentence of paragraph 21 as invading the attorney-client privilege. Respondents deny for lack of information and belief as to any conduct by Prolman. Respondents admit the remaining allegations in paragraph 17.

**SEC'S ALLEGATION:**

22. As a result of the conduct described above, 3C willfully violated Section 15(a) of the Exchange Act, which prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

**RESPONDENTS' ANSWER:**

Respondents deny that they violated, willfully or otherwise, Section 15(a) of the Exchange Act. Respondents admit that Section 15(a) of the Exchange Act "prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer."

**SEC'S ALLEGATION:**

23. As a result of the conduct described above, Jones willfully aided and abetted and caused 3C's violation of Section 15(a) of the Exchange Act, which prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

**RESPONDENTS' ANSWER:**

Respondents deny that Jones aided and abetted, willfully or otherwise, any violation by 3C of Section 15(a) of the Exchange Act. Respondents admit that Section 15(a) of the Exchange Act "prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer."

**SEC'S ALLEGATION:**

24. As a result of the conduct described above, Prolman willfully aided and abetted and caused 3C's violation of Section 15(a) of the Exchange Act, which prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

**RESPONDENTS' ANSWER:**

Respondents deny that 3C violated of Section 15(a) of the Exchange Act. Respondents admit that Section 15(a) of the Exchange Act "prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer." Respondents deny for lack of information and belief as to any conduct by Prolman.

Dated: March 1, 2016

POLEK LAW

By: 

Frank J. Polek  
[frank@poleklaw.com](mailto:frank@poleklaw.com)

Counsel for Respondents 3C Advisors &  
Associates, Inc. and Stephen Jones