U.S. SECURITIES AND EXCHANGE COMMISSION

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Press Release

SEC Charges Investment Adviser and Others With Defrauding Over 17,000 Retail Investors

Related Materials

- SEC Complaint

FOR IMMEDIATE RELEASE
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Washington D.C., Feb. 4, 2021 — The Securities and Exchange Commission today charged three individuals and their affiliated entities with running a Ponzi-like scheme that raised over $1.7 billion from securities issued by a New York-based asset management firm and registered investment adviser, GPB Capital. The SEC also charged GPB Capital with violating the whistleblower protection laws.

The SEC's complaint alleges that David Gentile, the owner and CEO of GPB Capital, and Jeffry Schneider, the owner of GPB Capital's placement agent Ascendant Capital, lied to investors about the source of money used to make an 8% annualized distribution payment to investors. According to the complaint, these defendants along with Ascendant Alternative Strategies, which marketed GPB Capital's investments, told investors that the distribution payments were paid exclusively with monies generated by GPB Capital's portfolio companies. As alleged, GPB Capital actually used investor money to pay portions of the annualized 8% distribution payments. GPB Capital and Gentile with assistance from Jeffrey Lash, a former managing partner at GPB Capital, also allegedly manipulated the financial statements of certain limited partnership funds managed by GPB Capital to perpetuate the deception by giving the false appearance that the funds' income was closer to generating sufficient income to cover the distribution payments than it actually was.

The SEC's complaint further alleges that GPB Capital and Ascendant Capital made misrepresentations to investors about millions of dollars in fees and other compensation received by Gentile and Schneider. As alleged, the fraudulent scheme continued for more than four years in part because GPB Capital kept investors in the dark about the limited partnership funds' true financial condition, failing to deliver audited financial statements and register two of its funds with the SEC. GPB Capital allegedly violated the whistleblower provisions of the securities laws by including language in termination and separation agreements that impeded individuals from coming forward to the SEC, and by retaliating against a known whistleblower.

"As alleged in our complaint, the defendants told investors that they would be paid distributions from profits of the portfolio companies when, in reality, many of the payments were being made from the investors' own funds," said Richard Best, Director of the SEC's New York Regional Office. "This action shows our continued pursuit of those who deceive investors and conceal their misconduct to reap profits for themselves."

Jane Norberg, Chief of the SEC's Office of the Whistleblower, added, "Whistleblower protections are a cornerstone of the SEC's whistleblower program. The charges filed today reinforce the Commission's commitment to protecting whistleblowers from retaliation and attempts to stifle the free flow of information to the Commission about possible securities law violations."

The SEC's complaint, filed in federal court for the Eastern District of New York, charges Gentile, Schneider, GPB Capital, Ascendant Alternative Strategies, and Ascendant Capital with violating the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934, and Lash with aiding and abetting certain of those violations. The complaint also charges GPB Capital and Gentile with violating the antifraud provisions of the Investment Advisers Act of 1940 and charges GPB Capital with violating the registration and whistleblower provisions of the Exchange Act and the Advisers Act's custody and compliance rules. The complaint seeks disgorgement of ill-gotten gains plus prejudgment interest and penalties.

The SEC appreciates the assistance of the U.S. Attorney's Office for the Eastern District of New York, Federal Bureau of Investigation, Financial Industry Regulatory Authority, Alabama Securities Commission, Illinois Securities Department, South Carolina Office of the Attorney General's Securities Division, Office of the Georgia Secretary of State's Securities Division, Missouri Securities Division, New Jersey Bureau of Securities, New York State Office of the Attorney General, and Texas State Securities Board.

The SEC's investigation was conducted by Kristin M. Pauley, Lindsay S. Moilanen, Kerri L. Palen, David Stoelting, Neal Jacobson, Melissa A. Coppola, Alistaire Bambach, and Sheldon L. Pollock, and supervised by Lara S. Mehraban. The SEC's examination that led to the investigation was conducted by Anthony P. Fiduccia, Kristine E. Geissler, Todd Naznitsky, Amritpal Sidhu, Merryl Hoffman, and Thomas J. Butler. The litigation will be led by Mr. Stoelting, Ms. Pauley, and Ms. Moilanen.

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