

SEC: Justice Deferred is Justice Served

March 31, 2014

The SEC recently announced its first deferred prosecution agreement (DPA) with an individual. The individual had recently resigned as the administrator of the Hepplewhite Fund, LP, a Connecticutbased hedge fund, and the SEC agreed not to prosecute him after he voluntarily contacted the SEC to report wrongdoing by the fund's manager. That report led to an emergency SEC enforcement action, which revealed both material misrepresentations regarding the fund's performance and the theft of \$1.5 million of investor money. As a result, the fund's manager and his firm, which was the fund's general partner, were required to pay \$6 million to compensate harmed investors. Under the terms of the DPA, the former administrator admitted to aiding and abetting the wrongdoing, disgorged \$50,000 he had received for his work with the fund, and accepted a five-year bar from work with hedge funds, brokers, dealers, investment advisers, or registered investment companies. Such a DPA is an example of the SEC's recent efforts to encourage cooperation by insiders who are reluctant to offer information to the SEC for fear of exposing themselves to prosecution. The SEC reserves the right to bring and enforcement action against such cooperators in the future, however, if they violate the terms of the DPA. While the SEC has not previously used a DPA with an individual, it has previously done so with corporate entities, companies that have self-reported violations or otherwise cooperated fully with the SEC.

Related Practices

Securities Litigation and Enforcement

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the

accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.