UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4604 / January 10, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17764

In the Matter of **CENTRE PARTNERS MANAGEMENT, 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 Centre Partners Management, LLC ("Respondent" or "CPM").

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 Respondent 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:

SUMMARY

1. These proceedings arise out of the failure by a registered investment adviser and its principals to disclose potential conflicts of interest to its private equity fund clients and the adviser's material misleading statements to the funds' investors. CPM is a private equity firm that provides investment advisory services to four funds and their related parallel entities. From 2001 through 2014, CPM failed to disclose relationships between certain of its principals and a third-party information technology ("IT") service provider (the "Service Provider"), and the potential conflicts of interest resulting from those relationships. During the same period, CPM engaged the Service Provider to perform due diligence services for portfolio company investments on behalf of and paid for by its fund clients, and several of the fund clients' portfolio companies separately retained the Service Provider for assorted technology services.

2. Three of CPM's principals (collectively, the "CPM Principals") have personal investments in the Service Provider that were made approximately 15 years ago, two of CPM's principals occupy two of the three seats on its board of directors, and the wife of one of the principals is a relative of the Service Provider's co-founder and Chief Executive Officer ("CEO"). These potential conflicts were not disclosed, as required by the funds' governing documents, to the advisory committees responsible for reviewing such conflicts. In addition, while CPM provided extensive disclosure of its use of the Service Provider in the investment due diligence process and presented its business relationship with this Service Provider as a competitive advantage to investors, absent from these disclosures was any mention of the relationships between the CPM Principals and the Service Provider until, while Centre Capital Investors VI, L.P. was being marketed, its Private Placement Memorandum ("PPM") was revised.

3. Although neither CPM nor the CPM Principals financially profited from their relationships with the Service Provider, CPM breached its fiduciary duty to its fund clients and made material misleading statements to the funds' investors by failing to disclose these potential conflicts of interest. CPM violated Section 206(2) of the Advisers Act by failing to make timely disclosure of the potential conflicts of interest. CPM also violated Sections 206(4) of the Advisers Act, and Rule 206(4)-8 promulgated thereunder, by virtue of omissions of material facts from its disclosures to investors concerning the relationships of the CPM Principals with the Service Provider.

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

RESPONDENT

4. **CPM** is a Delaware limited liability company with its principal place of business in New York, New York and an additional office in Los Angeles, California. It is an investment adviser registered with the Commission since November 9, 1999, with total assets under management of approximately $880 million as of March 31, 2016.

OTHER RELEVANT ENTITIES

5. **Centre Capital Investors III, L.P.** ("Fund III"), **Centre Capital Investors IV, L.P.** ("Fund IV"), **Centre Capital Investors V, L.P.** ("Fund V") and **Centre Capital Investors VI, L.P.** ("Fund VI") (collectively, the "Funds") are Delaware limited partnerships that commenced operations in 1999, 2003, 2007, and 2014, respectively. CPM serves as investment adviser to the Funds.

FACTS

Firm Background

6. CPM's current clients include the Funds, all of which are organized as limited partnerships, with CPM providing management, operation, and control pursuant to management agreements. Each Fund and its relationship with CPM is also governed by an Agreement of Limited Partnership ("LPA").

The Service Provider

7. In 2002, CPM began utilizing the Service Provider. Pursuant to the services engagement agreement between the parties (the "Agreement"), the Service Provider provides IT due diligence services with respect to potential portfolio investments for the Funds at a flat fee capped at $25,000 per engagement. The due diligence fees are paid by the Funds. The Agreement also provides for, among other things, exclusivity that prevents the Service Provider from performing similar due diligence services for other investment advisers and private equity firms. The CPM Principals have stated that the terms of the Agreement were negotiated for the benefit of the Funds and their limited partners. The Agreement expired on January 15, 2007, and, although the Agreement was not formally renewed, the parties still operate under its terms.

8. The Service Provider also provides back office support services directly to CPM, such as computer network and hardware support, the terms of which are not covered by the Agreement. These back office support services are paid for directly by CPM.

9. The Service Provider is available for direct engagement by the portfolio companies. CPM, however, does not require or promote the retention of the Service Provider by the portfolio companies for any services.

10. CPM and the portfolio companies have not been large consumers of the Service Provider's services. From January 2008 through January 2016, approximately 2% of the Service Provider's total sales revenues came from CPM and approximately 9.5% were from portfolio companies. During the same period, approximately 21% of portfolio companies retained the Service Provider directly. At the time CPM engaged the Service Provider for its first transaction in 2002, the Service Provider had been in business for approximately eighteen months.

The Service Provider is Showcased

11. The PPM's for Funds IV and V provide extensive descriptions of the Service Provider and the services it offers, as well as the advantages of their relationship (the PPM for Fund III pre-dated CPM's relationship with the Service Provider). For example, the PPM for Fund V describes the Service Provider as follows:

> *[The Service Provider]. . . For many middle market companies, the development of information systems can present a strategic opportunity for (or challenge to) continued future growth. IT is an area where most private equity investors must rely heavily on third-party consultants. Having learned from experience that this traditional approach does not present the optimal solution to a potentially material issue, we have taken a novel route. Since 2001, we have partnered with [the Service Provider], a seasoned and result oriented group of business technology experts, in an exclusive arrangement for private equity to add a powerful systems expertise skill set to the Centre Resource Model. [The Service Provider] has a staff of 50 consultants, many of whom have spent more than 20 years delivering tailored software applications and systems integration services. Throughout their careers, members of this team have designed, developed, deployed, supported and managed innovative and practical IT solutions for an array of clients, including businesses similar to those we target in the middle market. [The Service Provider] has broad experience in difficult industrial and commercial situations and state-of-the-art technical qualifications, driven by the needs of both its commercial and government clients. [The Service Provider] assists Centre Partners with due diligence and business systems assessment of our investments pre-closing and with implementation, if necessary, and systems monitoring post-closing. By teaming with [the Service Provider], we have a differentiated ability to help avoid IT pitfalls in our [due] diligence and during the life of our investments.*

12. In addition to the above disclosure, the Service Provider is mentioned or described in at least six other instances in the PPM for Fund V. However, omitted from the detailed descriptions was any discussion of the relationships between the CPM Principals and the Service Provider and the potential conflicts of interest they presented.

The Potential Conflicts

13. The CPM Principals – Principals A, B, and C – made and continue to hold personal investments in the Service Provider. Principal A, prior to joining CPM, personally invested

$100,000 in the Service Provider at the time of its formation approximately 15 years ago, and solicited other investors from colleagues and friends (Principal A invested another $25,000 in the Service provider approximately a year later). Two of the investors solicited by Principal A are the other two CPM Principals, who each invested $25,000 at or about the same time. Principal B's investment was made, also prior to joining CPM, through a partially-owned corporation (the "Corporation") in which he is a minority shareholder that provided him with a personal share of approximately $8,000 at the time of the investment. Collectively, Principals A, B, and C own approximately 9.6% of the outstanding shares of the Service Provider.

14. Principals A and B hold two of the three seats on the Service Provider's board of directors.

15. The Service Provider's co-founder, majority shareholder, President and CEO is the brother of Principal A's wife. The importance of the Service Provider's CEO is evinced by a "Key Man" provision in the Agreement. According to the provision, if the Service Provider's CEO ceased "to be actively involved in, or responsible for, the activities of [the Service Provider] for any reason," CPM had the right to terminate the Agreement, "upon written notice delivered to [the Service Provider] within thirty (30) days after having been notified by [the Service Provider] of such event."

16. Neither CPM nor the CPM Principals have financially profited from the relationships with the Service Provider.

The Potential Conflicts Are Flagged

17. In connection with raising capital for its new Fund VI, in May 2012 CPM retained a global private equity placement agent ("Placement Agent"). During the course of the engagement, the Placement Agent was informed by CPM about the Service Provider and, specifically, about Principal A and Principal C's investments. The Placement Agent was also informed that the Service Provider's CEO is the brother of Principal A's wife.

18. During meetings with the Placement Agent, investors inquired about the ownership of the Service Provider, and at least one potential investor also inquired about payments to the Service Provider.

19. The Placement Agent discussed with the CPM Principals their ownership interests in the Service Provider since it had the appearance of a conflict of interest and could raise questions with potential investors. At least one CPM Principal stated his belief that potential investors were aware of the relationship because, among other things, the Service Provider had a similar name to CPM. Also, Principal A informed the Placement Agent that the portfolio companies were not required to retain the Service Provider.

Potential Conflicts Remain Undisclosed

20. Despite the assertions to the Placement Agent that potential investors were aware of CPM's relationship to the Service Provider, there was at the time, in fact, no disclosure of any of the CPM Principals' investments, the two Principals' seats on the Service Provider's board of directors, or of the family relationship between the wife of Principal A and the Service Provider's CEO. No disclosure of these relationships appeared in the PPMs or LPAs for Funds IV and V, in the audited financial statements distributed to investors, or in CPM's Forms ADV.

21. Although the LPAs set forth the means to address potential conflicts, they provided no disclosure of any potential conflicts of interest related to the Service Provider. As set forth in their respective LPAs, Funds III and IV have an "Advisory Board" and Fund V has an "LP Advisory Committee" ("LPAC") to which material potential conflicts of interest were to be brought for review and approval or disapproval. The potential conflicts posed by the CPM Principals' investments in the Service Provider, certain CPM Principals' membership on the Service Provider's board of directors, and the relationship between the wife of Principal A and the Service Provider's CEO were not presented to the Advisory Boards or to the LPACs.

22. The audited financial statements for Funds III, IV and V each had a footnote discussing related party transactions, but no mention of the Service Provider or the potential conflicts of interest.

23. CPM's Forms ADV filed in March 2011 through March 2013 made no mention of the potential conflicts of interest.

OCIE Examines CPM and CPM's Partial Disclosure of the Potential Conflicts

24. The Commission's Office of Compliance Inspections and Examinations ("OCIE") conducted an examination of CPM, which concluded in early-2014.

25. After the commencement of the exam and as a result of OCIE's concerns, CPM added disclosure of some of the potential conflicts to its PPM for Fund VI, to its Form ADV and to the audited financial statements of the Funds.

26. The PPM for Fund VI included a "Service Providers" paragraph within the "Conflicts of Interest" section. To this section, CPM added "certain of the Principals hold non-controlling and minority equity interests in [the Service Provider], which is controlled by a relative of one such principal." CPM's Form ADV filed in March 2014 included similar disclosure.

27. CPM added disclosure to the 2013 audited financial statements of the Funds stating "[a]n affiliate of [CPM] may be engaged by the [Fund]'s portfolio companies to perform consulting services and receive fees accordingly."

28. The added disclosures described in the immediately preceding paragraphs did not include reference to the board of directors seats held by Principal A and Principal B. This disclosure was included in an amended Form ADV, Part 2 filed by CPM on November 7, 2016.

VIOLATIONS

29. As a result of the conduct described above, CPM willfully violated Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging "in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client."[2] Investment advisers have a duty to disclose potential conflicts of interest. *See Vernazza v. SEC*, 327 F.3d 851, 860 (9th Cir. 2003) (affirming that "petitioners had a duty to disclose potential conflicts of interest accurately . . ."). A violation of Section 206(2) may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n. 5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*

30. As a result of the conduct described above, CPM willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8(a)(1) thereunder, which make it unlawful for any investment adviser to a pooled investment vehicle to "[m]ake any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle." A violation of Section 206(4) and the rules thereunder does not require scienter. *Steadman*, 967 F.2d at 647.

IV.

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

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

A. Respondent CPM cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder.

B. Respondent CPM is censured.

C. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of $50,000.00 to the Securities and Exchange Commission for transfer to the

---

[2] A willful violation of the securities laws means merely "'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.'" *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

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 Centre Partners Management, 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 Sanjay Wadhwa, Senior Associate Director, Division of Enforcement, Securities and Exchange Commission, New York Regional Office, Brookfield Place, 200 Vesey Street, Suite 400, New York, New York 10281-1022.

By the Commission.

Brent J. Fields
Secretary