UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6712 / September 20, 2024

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4521 / September 20, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22148

In the Matter of **CLOSED LOOP PARTNERS, 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 Closed Loop Partners, LLC ("Closed Loop," or the "Respondent").

II.

In anticipation of the institution of these proceedings, the Respondent has submitted an Offer of Settlement ("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, the 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 the Respondent's Offer, the Commission finds that:

Summary

1. Closed Loop, a registered investment adviser, failed to disclose certain conflicts of interest to its private fund clients ("Funds") in violation of Section 206(2) of the Advisers Act. First, it caused an entity wholly owned by a Fund to obtain a short-term loan from Lender A without disclosing that Closed Loop's then Executive Director and Chief Compliance Officer, who negotiated the loan for the Fund, sat on the board of directors of Lender A's 50% owner. Closed Loop failed to disclose the resulting conflict of interest to, and obtain prior consent to the loan from, the Fund. Second, Closed Loop failed to disclose certain conflicts of interest related to short-term loans that Closed Loop and a related entity made to two other Funds that Closed Loop advised. Because Closed Loop and the related entity became creditors of the two Funds, Closed Loop was required to disclose the resulting conflict of interest to, and obtain prior consent to the loans from, those Funds.

2. Closed Loop also failed to timely distribute annual audited financial statements prepared in accordance with generally accepted accounting principles ("GAAP") to the investors of four special purpose vehicle Funds and one single-limited partner Fund, the assets of which it had custody, or otherwise ensure that client funds and securities were verified by actual examination by an independent public accountant, for multiple fiscal years from 2020 through 2022, resulting in violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder, commonly referred to as the "custody rule."

3. Finally, Closed Loop also failed to adopt and implement written policies and procedures reasonably designed to prevent the foregoing violations of the Advisers Act and the rules thereunder, resulting in a violation of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, commonly referred to as the "compliance rule."

Respondent

4. Closed Loop is a Delaware limited liability company with its principal office and place of business in New York, New York. Closed Loop has been registered with the Commission as an investment adviser since March 2020. According to Closed Loop's April 2024 Form ADV, it has approximately $492 million in regulatory assets under management in 16 private funds.

Facts

Background

5. During the relevant period, a Closed Loop affiliate was the general partner of Closed Loop Leadership Fund, L.P ("CLLF"), a private equity fund.

6. During the relevant period, a Closed Loop affiliate was the general partner of Closed Loop Ventures, LP ("CLV"), a venture capital fund.

7. Similarly, Closed Loop affiliates were the general partners or managing members of six other Funds: Closed Loop Ventures II LP ("CLV II"), a venture capital fund; Closed Loop rPet Fund, LP, a private fund with a single limited partner ("rPet Fund"); Algramo CLV SPV LLC, a co-investment vehicle ("Algramo SPV"); HBG CLV SPV LLC, a co-investment vehicle ("HBG SPV"); CLV GP Co-Invest, LLC, a co-investment vehicle ("Co-Invest I"); and CLV GP Co-Invest II, LLC, a co-investment vehicle ("Co-Invest II").

8. In October 2019, Closed Loop formed CLLF BR Holding, LLC ("CLLF BR") to hold CLLF's ownership interest in a CLLF portfolio company. CLLF owned 100% of CLLF BR's membership units until September 2021, when an unaffiliated third party, Lender A, obtained membership units in CLLF BR by exercising warrants that it had obtained from CLLF in 2020. During the relevant period, CLLF was the managing member of CLLF BR, and, as noted above, a Closed Loop affiliate was the general partner of CLLF.

9. Closed Loop or an affiliate of Closed Loop was the investment adviser to each of the Funds identified in paragraphs 5 through 8 above, and each of them invested in securities.

Undisclosed Conflicts of Interest

10. As described below, Closed Loop caused three Funds to obtain loans that created conflicts of interest for Closed Loop. In each case, Closed Loop was required to fully disclose these conflicts of interest to the Fund and obtain the Fund's consent before completing the transactions. In order to do so, each Fund's limited partnership agreement required Closed Loop to disclose the conflict of interest to either a Limited Partner Advisory Committee ("LPAC") or to each of the Fund's limited partners and to obtain the Fund's prior consent. Closed Loop had not yet formed an LPAC for these three Funds by the time of the relevant transactions and because Closed Loop did not fully disclose the material facts concerning the conflicts to the Funds' limited partners, Closed Loop breached its fiduciary duty to the Funds and, as a result, violated Section 206(2) of the Advisers Act.

11. In the first transaction, in 2019, Closed Loop caused CLLF BR, an entity then wholly owned by CLLF, to obtain a short-term bridge loan from Lender A to finance an equity investment in a CLLF portfolio company ("Portfolio Company"). Lender A was a company in the same industry as Portfolio Company. Closed Loop had a conflict of interest because its then

Executive Director and Chief Compliance Officer was at the time of the loan a member of the board of directors of Lender A's 50% owner, and he negotiated the loan for CLLF.

12. To complete the Portfolio Company purchase, CLLF needed an additional $5 million but did not have sufficient cash on hand. At the time, CLLF had already exhausted a line of credit collateralized by the $18 million in capital commitments that the Fund had at the time. After unsuccessfully attempting to obtain financing from other parties, Closed Loop caused CLLF, through CLLF BR, to take out a short-term unsecured $5 million bridge loan from Lender A at an annual interest rate of 24% (or a monthly rate of 2%). Under the terms of the bridge loan, Lender A also received warrants allowing it to purchase an equity interest in CLLF BR for a price of one dollar per share. CLLF BR repaid the loan eight months later, including a total of $428,370 in interest, and Lender A subsequently exercised the warrants, diluting CLLF's equity interest in CLLF BR. When Portfolio Company was later sold, Lender A earned an additional profit of $623,124 from the equity interest it had obtained in CLLF BR by exercising the warrants. As a result of the combined value of the interest payments and the exercised warrants, the loan generated a total of $1,051,494 in effective interest for Lender A, or more than 20% of the initial principal, in an eight-month period.

13. Closed Loop was required to fully disclose this conflict and the terms of the bridge loan to, and obtain prior consent for the loan from, its Fund. CLLF's limited partnership agreement specifically required that such disclosure be made to, and consent obtained from, an LPAC. However, Closed Loop had not yet caused CLLF to form an LPAC and failed to fully disclose the material facts concerning this conflict to CLLF's limited partners and to obtain their prior consent, thereby breaching Closed Loop's fiduciary duty to CLLF.

14. In the second and third transactions, Closed Loop and a Closed Loop affiliate, of which Closed Loop was a majority owner, made short-term, interest-free loans to two other Closed Loop funds: an approximately $800,000 loan to CLV II in 2020 and a $750,000 loan to rPet Fund in 2019.

15. Because Closed Loop controlled the parties on both sides of the loans to these funds, these transactions were subject to inherent conflicts of interest that Closed Loop was obligated to disclose. While Closed Loop and its affiliate did not charge interest on the loans, the loans nevertheless gave rise to a conflict of interest between Closed Loop and the funds, because Closed Loop and the related entity became creditors of the two funds until the loans were repaid.

16. CLV II's limited partnership agreement specifically required Closed Loop to disclose the conflict of interest and the terms of the loan to, and obtain prior consent to the loan from, an LPAC. However, Closed Loop had not yet caused CLV II to form an LPAC and failed to fully disclose the material facts concerning this conflict to the fund's limited partners and obtain their prior consent, thereby breaching Closed Loop's fiduciary duty to the fund.

17. Similarly, Closed Loop was required to disclose the conflict of interest and the terms of the loan to, and obtain prior consent to the loan from, rPet Fund's single limited partner. However, Closed Loop failed to fully disclose the material facts concerning this conflict to the

fund's limited partner and obtain its prior consent, thereby breaching Closed Loop's fiduciary duty to the fund.

18. After the Commission's enforcement staff completed its investigation in this matter, Closed Loop made disclosures concerning these three loan transactions to, and the transactions were ratified by, the relevant LPACs and rPet Fund's sole limited partner.

Custody Rule Failures

19. The custody rule requires that registered advisers who have custody of client funds or securities comply with an enumerated set of requirements to prevent loss, misuse, or misappropriation of those assets.

20. An investment adviser has custody of client assets if it or a related person holds, directly or indirectly, client funds or securities, or if it has the ability to obtain possession of, or has access to, those assets, including, among other things, by acting as a managing member of a limited liability company, a general partner of a limited partnership or a comparable position for another type of pooled investment vehicle. *See* Rule 206(4)-2(d)(2). Because affiliates of Closed Loop were the general partners or managing members of the Funds listed below, Closed Loop had custody of the assets of each of those Funds as defined in Rule 206(4)-2.

21. A registered investment adviser who has custody of client assets must, among other things: (1) ensure that a qualified custodian maintains the client assets; (2) notify the client in writing of accounts opened by the adviser at a qualified custodian on the client's behalf; (3) 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 liability company or a limited partnership for which the adviser or a related person is a managing member, general partner, or comparable position for another type of pooled investment vehicle, the account statements must be sent to each member or limited partner; and (4) 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* Rule 206(4)-2(a)(1)-(4).

22. The custody rule provides an alternative to complying with the requirements of Rule 206(4)-2(a)(2), (3), and (4) for investment advisers to limited liability companies, limited partnerships or other types of pooled investment vehicles, such as the two Closed Loop funds at issue. 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 (or members . . .) within 120 days of the end of [the fund's] fiscal year" ("Audited Financials Alternative"). *See* 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 ("PCAOB"). *See* Rule 206(4)-2(b)(4)(ii). An investment adviser to a limited liability

company or limited partnership 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 Rules 206(4)-2(a)(2), (3), and (4) in order to comply with the custody rule.

23. However, Closed Loop did not satisfy the requirements of the Audited Financials Alternative or otherwise comply with the custody rule with respect to the five Funds listed below, the assets of which it had custody as defined in Rule 206(4)-2. Closed Loop did not engage an independent, PCAOB-registered accounting firm on a timely basis to conduct an annual audit of the financial statements for any of the five Funds. As a result, Closed Loop did not distribute audited financial statements to investors in the five Funds within 120 days of the end of the relevant fiscal years, as set forth in the table below:

Fund	End of Fiscal Year	Date Distribution Required	Date Audited Financial Statements Distributed	Days Late
rPet Fund	December 31, 2020	April 30, 2021	August 12, 2024	1,200
rPet Fund	December 31, 2021	April 30, 2022	August 12, 2024	835
Algramo SPV	December 31, 2020	April 30, 2021	August 12, 2024	1,200
Algramo SPV	December 31, 2021	April 30, 2022	August 12, 2024	835
HBG SPV	December 31, 2020	April 30, 2021	August 12, 2024	1,200
HBG SPV	December 31, 2021	April 30, 2022	August 12, 2024	835
Co-Invest 1	December 31, 2020	April 30, 2021	In progress	
Co-Invest 1	December 31, 2021	April 30, 2022	In progress	
Co-Invest 1	December 31, 2022	April 30, 2023	In progress	
Co-Invest 2	December 31, 2020	April 30, 2021	In progress	

Fund	End of Fiscal Year	Date Distribution Required	Date Audited Financial Statements Distributed	Days Late
Co-Invest 2	December 31, 2021	April 30, 2022	In progress	
Co-Invest 2	December 31, 2022	April 30, 2023	In progress	

24. Because Closed Loop did not satisfy the requirements of the Audited Financials Alternative for the fiscal years listed above, Closed Loop was required to comply with each of the provisions of Rules 206(4)-2(a)(2), (3), and (4), which it failed to do. For example, Closed Loop did not ensure that funds and securities were 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, in accordance with Rule 206(4)-2(a)(4) with respect to any of the foregoing private Funds during this period.

Compliance Rule Failures

25. In addition, Closed Loop failed to comply with the requirement that every investment adviser registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder. *See* Rule 206(4)-7(a). While Closed Loop's written policies and procedures generally addressed the custody rule, they were not reasonably designed and implemented to prevent violations of the rule. Similarly, although the compliance manual contained general language regarding potential conflicts of interest, Closed Loop lacked written policies or procedures reasonably designed and implemented to prevent violations of Sections 206(2) of the Advisers Act with respect to transactions giving rise to the type of conflicts described above.

Remediation

26. As of the date of this Order, Closed Loop has revised its compliance program, policies and procedures to address the issues raised by the facts described above and taken the remedial steps described above in paragraph 18.

Violations

27. Section 206(2) of the Advisers Act makes it "unlawful for any investment adviser . . . to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Sections 206(2) of the Advisers Act; a finding of negligence is sufficient. *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)).

28. Section 206(4) of the Advisers Act prohibits an investment adviser from engaging in acts, practices or courses of business that are fraudulent, deceptive, or manipulative, as defined by the Commission in rules and regulations promulgated under the statute. Rule 206(4)-2 provides that it is a fraudulent, deceptive, or manipulative act, practice or course of business within the meaning of Section 206(4) for a registered investment adviser to have custody of client assets unless the adviser complies with the custody rule. Among other things, Rule 206(4)-2 requires registered investment advisers with custody of client funds or securities to have independent public accountants conduct annual surprise examinations of those client funds or securities, or to have private fund clients timely distribute to their investors annual audited financial statements prepared in accordance with GAAP. Rule 206(4)-7 requires, among other things, that an investment adviser registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and rules thereunder.

29. As a result of the conduct described above, Closed Loop willfully[1] violated Sections 206(2) and 206(4) of the Advisers Act and Rules 206(4)-2 and 206(4)-7 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in the 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 Sections 206(2) and 206(4) of the Advisers Act and Rules 206(4)-2 and 206(4)-7 thereunder.

B. Respondent is censured.

C. Respondent shall pay a civil monetary penalty of $250,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3).

[1] "Willfully," for purposes of imposing relief under Sections 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).

Payment shall be made in the following installments:

1. Due within 10 days of the entry of this Order: $75,000;
2. Due within 90 days of the entry of this Order: $60,000;
3. Due within 180 days of the entry of this Order: $60,000; and
4. Due within 270 days of the entry of this Order: $55,000.

Payment shall be applied first to post-order interest, which accrues pursuant to 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.

D. 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 Closed Loop as the 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 George Stepaniuk, Assistant Regional Director, Securities and Exchange Commission, New York Regional Office, 100 Pearl Street, Suite 20-100, New York, NY 10004.

E. 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,

Respondent 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