

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20586

<p>In the Matter of</p> <p style="text-align:center">DANIEL B. KAMENSKY,</p> <p>Respondent.</p>
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ANSWER OF RESPONDENT DANIEL B. KAMENSKY

Pursuant to Rule 220 of the Securities and Exchange Commission’s (“SEC” or the “Commission”) Rules of Practice, Respondent Daniel B. Kamensky, through his undersigned counsel, respectfully submits this Answer to the Corrected Order Instituting Administrative Proceedings and Cease-and-Desist Proceedings (“OIP”), dated September 21, 2021 and filed on September 28, 2021.

INTRODUCTORY STATEMENT

Mr. Kamensky reserves the right to amend all responses in this Answer, including, without limitation, in the event the Commission assigns an Administrative Law Judge to this proceeding.

ANSWER

Section I of the OIP contains legal conclusions to which no response is required.

* * *

1. *From 2015 through at least August 1, 2020, Respondent was the founder and Managing Partner and Portfolio Manager of New York-based and Commission-registered investment adviser, Marble Ridge Capital LP (“MRC”). Respondent, 48 years old, is incarcerated at the Otisville Federal Correctional Institution in Otisville, New York.*

Answer to Paragraph 1: Mr. Kamensky admits that from 2015 through at least August 1, 2020,

he was the founder and Managing Partner and Portfolio Manager of New York-based and Commission-registered investment adviser, Marble Ridge Capital LP (“MRC”). Mr. Kamensky further admits that he is currently 48 years old. Mr. Kamensky denies the remainder of Paragraph 1 of the OIP.

2. *On September 10, 2021, a final judgment was entered by consent against Kamensky, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 in the civil action entitled Securities and Exchange Commission v. Daniel B. Kamensky, Civil Action Number 1:20-CV-07193, in the United States District Court for the Southern District of New York.*

Answer to Paragraph 2: Mr. Kamensky admits the allegations contained in Paragraph 2 of the OIP.

3. *The Commission’s complaint alleged that Kamensky, founder of MRC, a then-registered investment adviser to private funds, including Marble Ridge Master Fund LP (collectively, the “Fund”), which specialized in distressed investment opportunities, engaged in misconduct in the offer of certain securities (MyTheresa Series B preferred shares) being disposed of as part of the Neiman Marcus Group Ltd. LLC (“Neiman”) Chapter 11 bankruptcy proceedings. Specifically, on July 31, 2020, Kamensky, after learning that Jefferies Financial Group Inc. (“Jefferies”) submitted a bid for the securities that was higher than his bid, contacted Jefferies to coerce it into withdrawing its bid. Kamensky told Jefferies that he would use his position on the unsecured creditor’s committee (the “UCC”) to ensure that Jefferies’ bid was rejected and that, if Jefferies, nevertheless, proceeded with its bid, and thereby drove the price up, Kamensky would retaliate by having MRC cease doing business with Jefferies. Kamensky abused his position of trust as a member of the UCC by improperly leveraging that position to scuttle a competing, higher, bid that was in the best interest of all unsecured creditors to consider. Jefferies withdrew its rival bid in response to Kamensky’s coercive threats, but reported Kamensky’s misconduct to the UCC. When Kamensky learned of this, he again reached out to Jefferies to cover up the fact that Kamensky tried to prevent Jefferies from participating in Neiman’s offering of securities through his coercive threats. On a recorded call, Kamensky candidly admitted to Jefferies that he could go to jail if Jefferies did not adopt his (a false) version of their previous conversation. Jefferies refused to cover up for Kamensky and his misconduct was ultimately revealed.*

Answer to Paragraph 3: Mr. Kamensky admits that Paragraph 3 of the OIP generally describes the allegations in the Commission’s complaint against Mr. Kamensky. Mr. Kamensky further states that to the extent this paragraph purports to characterize the contents of the complaint, which document speaks for itself, he denies any such characterizations inconsistent with the contents of the complaint and refers to the complaint for its true and correct contents.

4. *On February 3, 2021, Kamenksy [sic] pleaded guilty to one count of extortion and bribery in connection with bankruptcy, in violation of Title 18 United States Code, Section 152(6), before the United States District Court for the Southern District of New York, in United States v.*

Daniel Kamensky, No. 21-CR-67. On May 10, 2021, a judgment in the criminal case was entered against Kamensky [sic]. He was sentenced to imprisonment for six months, followed by six months of supervised release with home detention, and fined \$55,000.

Answer to Paragraph 4: Mr. Kamensky admits that on February 3, 2021, he pleaded guilty to one count in violation of Title 18 United States Code, Section 152(6), before the United States District Court for the Southern District of New York, in United States v. Daniel Kamensky, No. 21-CR-67. Mr. Kamensky further admits that on May 10, 2021, a judgment in the criminal case against him was entered and that he was sentenced to six months' imprisonment followed by six months of supervised release with home detention, and fined \$55,000.

5. *The count of the criminal information to which Kamensky pleaded guilty arises out of substantially the same facts and circumstance underlying [sic] the Commission's complaint described in Paragraph 3 above, and, alleges, among other things, that Kamensky, while associated with an investment adviser, pressured Jefferies to refrain from bidding to purchase securities from the unsecured creditors of Neiman in connection with its Chapter 11 bankruptcy proceeding by threatening to: (i) use his position on the UCC to ensure that Jefferies' bid would be rejected; and (ii) withhold MRC's future business from Jefferies, so that MRC, an investment adviser partially owned and managed by Kamensky, could obtain those securities at an artificially lower price.*

Answer to Paragraph 5: Mr. Kamensky admits that the Information he pleaded guilty to arises from substantially the same conduct described in the SEC's complaint. Mr. Kamensky further states that to the extent Paragraph 5 of the OIP purports to characterize the contents of the Information, which document speaks for itself, he denies any such characterizations inconsistent with the contents of the Information and refers to the Information for its true and correct contents.

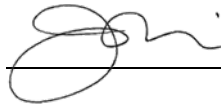
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Sections III and IV of the OIP describe orders of the Commission, to which no response is required.

Dated: October 12, 2021
New York, New York

Respectfully submitted,

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By:  _____

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