

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
December 12, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13309

In the Matter of

MICHAEL W. CROW and
ROBERT DAVID FUCHS,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Michael W. Crow (“Crow”) and Robert David Fuchs (“Fuchs”) (collectively, the “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

A. Crow, age 49, is a resident of Fairfield, Connecticut. In 2002, Crow founded Duncan Capital Group LLC (“Duncan Capital Group”), an entity organized under Delaware law, having its principal place of business in New York. At no time was Duncan Capital Group registered with the Commission.

B. Fuchs, age 59, is a resident of New Rochelle, New York. Through his wholly-owned entity, Fuchs was the sole owner of Duncan Capital LLC (“Duncan Capital”), which was, at all relevant times, a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act and was a member of the National Association of Securities Dealers. Duncan Capital’s principal place of business was in New York, New York. Fuchs was also Duncan Capital’s nominal president, compliance officer and registered financial and operations principal (“FINOP”).

C. On May 15, 2007, the Commission filed a civil action against Crow, Fuchs, Duncan Capital, Duncan Capital Group, and others, in the United States District Court for the Southern District of New York. See Securities and Exchange Commission v. Michael W. Crow, et al., Civil Action Number 07 Civ. 3814 (CM). On August 17, 2007, the Commission filed an Amended Complaint alleging, among other things, that Crow unlawfully acted as an unregistered principal of Duncan Capital, with Fuchs' knowledge and substantial assistance. The Complaint further alleged that Duncan Capital's regulatory filings, signed by Fuchs, falsely omitted to state both Crow's control of the firm and his prior regulatory history. Fuchs, the owner and nominal president of Duncan Capital, not only acquiesced in Crow's undisclosed control of the firm, but also facilitated it by, among other things, transferring Duncan Capital's profits to entities Crow controlled. Duncan Capital, with the knowledge and substantial assistance of Crow and Fuchs, also failed to register both Crow and another individual, who was the firm's senior managing director. Also, with Crow's and Fuchs' knowledge and substantial assistance, Duncan Capital Group acted as an unregistered broker.

D. During the period of the alleged violations, Crow and Fuchs were associated with an unregistered investment adviser through which they managed a hedge fund, as well as being associated with Duncan Capital, a registered broker-dealer and, in Crow's case, Duncan Capital Group, an unregistered broker-dealer.

E. On November 5, 2008, following a bench trial, the Honorable Colleen McMahon issued the Court's findings of fact and conclusions of law. The Court found that Crow and Fuchs aided and abetted Duncan Capital's violations of Sections 15(b)(1) and 15(b)(7) of the Exchange Act and Rules 15b3-1 and 15b7-1 thereunder; that Crow and Fuchs aided and abetted Duncan Capital Group's violations of Section 15(a) of the Exchange Act; and that Fuchs aided and abetted Duncan Capital's violations of Section 17(a) of the Exchange Act and Rule 17a-3(a)(12) thereunder.

F. In addition, the Court found that Fuchs offered fabricated evidence and gave false and incredible testimony and that Crow perjured himself at trial. The Court found that both Crow and Fuchs engaged in egregious conduct, with scienter, and took steps to cover up their actions. The Court also found that Crow and Fuchs could not be trusted in the future to comply with the securities laws and that there was a reasonable likelihood that they will commit future violations. The Court further found that Crow had been enjoined once already and had acted in breach of the terms of a consent judgment entered against him in federal district court in 1998; and found that Fuchs had failed in his responsibility as the FINOP and compliance officer of a broker-dealer.

G. On November 13, 2008, on the bases of the Court's findings of fact and conclusions of law, the Court entered the Final Judgment as to Defendants Michael W. Crow, Robert David Fuchs, Duncan Capital LLC, Duncan Capital Group LLC and Relief Defendants (the "Judgment"). The Judgment, among other things, permanently enjoins Crow from aiding and abetting violations of Sections 15(a), 15(b)(1) and 15(b)(7) of the Exchange Act and Rules 15b3-1 and 15b7-1 thereunder; and permanently enjoins Fuchs from aiding and abetting violations of Sections 15(a), 15(b)(1), 15(b)(7) and 17(a) of the Exchange Act and Rules 15b3-1, 15b7-1 and 17a-3(a)(12) thereunder.

H. The Judgment further ordered that: (1) Crow and Duncan Capital Group LLC disgorge, with joint and several liability, ill-gotten gains of \$1,562,337, plus prejudgment interest in the amount of \$437,415.87, for a total of \$1,999,752.87; (2) Fuchs disgorge ill-gotten gains of \$221,000, plus prejudgment interest of \$61,874.95, for a total of \$282,874.95; and (3) Crow, Fuchs, Duncan Capital and Duncan Capital Group disgorge, with joint and several liability, ill-gotten gains of \$3,903,474, plus prejudgment interest of \$1,092,877, for a total of \$4,996,351. The Judgment further ordered Crow and Fuchs to pay penalties of \$250,000 and \$125,000 respectively, and ordered Duncan Capital and Duncan Capital Group to each pay a penalty of \$50,000. The Judgment also ordered certain relief defendants to disgorge ill-gotten gains.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against the Respondents pursuant to Section 15(b) of the Exchange Act; and

C. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file Answers to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed Answers, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon the Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Florence E. Harmon
Acting Secretary