

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9187 / February 16, 2011

INVESTMENT ADVISERS ACT OF 1940
Release No. 3160 / February 16, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14260

In the Matter of

**ENVISION CAPITAL
MANAGEMENT, LTD. AND
MICHAEL M. DRUCKMAN**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933, AND SECTIONS 203(e), 203(f),
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 Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Envision Capital Management, Ltd. and Michael M. Druckman (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, and Sections 203(e), 203(f), 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 Respondents' Offers, the Commission finds¹ that

Summary

This matter involves inaccurate and incomplete disclosures made by Envision Capital Management, Ltd. ("Envision Capital"), a registered investment adviser, and Michael M. Druckman ("Druckman"), Envision Capital's owner and officer, regarding three affiliated hedge funds Envision Capital manages. Druckman formed Equity Income Partners, L.P. ("Equity Income"), Galileo Capital Partners LLC ("Galileo LLC"), and Galileo Capital Partners, Ltd. ("Galileo Ltd.") (collectively, the "Funds") to invest in short-term asset-backed real estate loans. Beginning in at least January 2007, Envision Capital and Druckman did not provide complete and accurate disclosure of material facts to the Funds' investors regarding the Funds' redemption practices and loan-to-value ratios on real estate loans made by the Funds. They also overcharged performance and management fees for Galileo LLC, and at times, used cash from one Fund to pay another Fund's property expenses without disclosing the practice to investors. Envision Capital also failed to follow the custody rules of the Advisers Act, did not implement Envision Capital's policies and procedures regarding the custody rule, and failed to appoint an appropriate chief compliance officer to oversee the firm's activities. Druckman willfully aided and abetted and caused Envision Capital's custody rule and policies and procedures violations.

Respondents

1. Envision Capital Management, Ltd., formerly known as Physicians Financial Services, Ltd., is a Scottsdale-based Arizona corporation formed in 1982. Envision Capital has been registered as an investment adviser with the Commission since 1985. Michael and Patricia Druckman indirectly own 100% of Envision Capital through the Druckman Family Trust.
2. Michael M. Druckman, age 58, is a resident of Fountain Hills, Arizona. Druckman is the founder, president, and indirect owner of Envision Capital.

Other Relevant Entities

3. Equity Income Partners, L.P. is an Arizona based limited partnership formed in March 1989. Equity Income's general partner is Envision Capital. From January 2007 to August 2009, Equity Income raised approximately \$950,000 from 16 investors in an unregistered offering.
4. Galileo Capital Partners, LLC is an Arizona limited liability company formed in September 2004. Envision Capital is the manager of Galileo LLC. From January 2007 to August 2009, Galileo LLC raised \$4.1 million from 27 investors in an unregistered offering.

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. Galileo Capital Partners, Ltd. is a Cayman Islands exempted company incorporated in February 2006. Envision Capital is the manager of Galileo. From January 2007 to August 2009, Galileo Ltd. raised \$13.8 million from 9 investors in an unregistered offering.

Background

6. Envision Capital has a portfolio management business in which the firm is the adviser for over 300 separately managed accounts, including three affiliated hedge Funds Druckman created, Equity Income, Galileo LLC, and Galileo Ltd. Two of the Funds, Equity Income and Galileo LLC, invest in, and directly provide, short term asset-backed loans to commercial borrowers. The third Fund, Galileo Ltd., purchases participation interests in loans. From January 2007 through at least August 2009, about 52 investors, including institutions, individuals, and fund of funds, invested almost \$19 million in the Funds.

7. Envision Capital, the general partner or manager of the Funds, has discretionary authority over and access to the Funds' investments, and Druckman manages and controls all of the Funds' operations and real estate loan decisions. In addition to the loans, all three Funds also held shares in money market funds.

8. From January 2007 through at least August 2009, a total of about 140 investors located in multiple states were invested in the Funds. At least 26 investors in Equity Income were unaccredited, and a number of subscription documents for both Galileo LLC and Equity Income did not contain supporting accreditation documentation. About 65 of the Funds' investors are advisory clients of Envision Capital.

9. Prior to investing, investors typically receive a copy of the respective Funds' Private Offering Memorandum ("POM") and subscription documents. The POMs for Equity Income and Galileo LLC state that redemptions are only available to investors "first come, first served" based on the respective Fund's liquidity. The POMs also include provisions that give full discretion to Envision Capital and Druckman to determine if any redemption can occur. On several occasions between February 2006 and April 2009, contrary to the "first come, first served" language in the POMs, Envision Capital and Druckman satisfied requests for partial redemptions or those requests involving smaller amounts of monies, without disclosing this practice to investors.

10. Envision Capital charges monthly fees to the Funds. Per Galileo LLC's POM, Envision Capital charges Galileo LLC management fees of 1% and performance fees of 20%, which are computed on the basis of actual cash receipts. Equity Income and Galileo Ltd. require performance and management fees, if any, to be computed on an accrual basis. From January 2007 to December 2008, Envision Capital and Druckman overcharged the performance and management fees that Galileo LLC paid to Envision Capital by erroneously using an accrual basis method. Specifically, Envision Capital and Druckman overcharged Envision Capital's fees by \$305,244 by taking into account \$1.5 million of unpaid accrued interest income, which Galileo LLC had not, at that time, received from the borrowers on the loans. Therefore, Envision Capital was not entitled to any fees on that income. Envision Capital has now credited this amount back.

11. At times, and undisclosed to Fund investors, Envision Capital and Druckman used monies from one Fund to pay the expenses of another Fund. When a loan financed by the Funds defaulted and the property securing the loan was foreclosed upon, one or more of the Funds typically acquired the underlying property and became responsible for the resulting property expenses (such as taxes, maintenance, and repairs). The Funds jointly owned some of the properties, while other properties were acquired by only one Fund. If a property was jointly owned, each Fund was obligated to pay for the property expenses only to the extent of its relative ownership percentage of the underlying property. In some instances, however, Envision Capital and Druckman used cash from one Fund to make property expense payments, regardless of the paying Funds' ownership interest in the property at issue. The POMs do not authorize Envision Capital and Druckman to use one Fund's monies to pay another Fund's property expenses, and Envision Capital and Druckman did not disclose this practice to investors.

12. Envision Capital represented in its marketing materials and on its website that loans made by the Funds would not exceed a loan-to-value ratio of 65% for Equity Income and 67.5% for Galileo LLC and Galileo Ltd. In some instances during the relevant period, Envision Capital and Druckman used Druckman's own valuation of the property in calculating the loan-to-value ratio instead of third-party property appraisals Envision Capital had received. At times, even when using Druckman's own valuation to determine the property's value, Envision Capital and Druckman exceeded the advertised loan-to-value ratios. Envision Capital and Druckman did not adequately disclose its valuation practices to investors, and the marketing materials did not contain any disclosures stating the methods used to value the properties and calculate loan-to-value ratios.

13. Envision Capital maintains custody of the Funds' assets and securities. During the relevant time period, Envision Capital and Druckman failed to comply with the custody rule under the Advisers Act because they sent account statements directly to the Funds' investors without either subjecting the Funds to an annual surprise exam by an independent public accountant or sending annual GAAP-compliant audited financial statements to investors within 120 days of the end of the fiscal year end.

14. The Advisers Act requires that an investment adviser adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder, and requires that investment advisers appoint a chief compliance officer responsible for administering the adviser's policies and procedures. Although Envision Capital's policies and procedures manual contained custody rule policies and procedures, Envision Capital and Druckman did not implement them. Additionally, from June 2006 to April 2009, Envision Capital and Druckman appointed as Envision Capital's chief compliance officer an individual who had no compliance training, management responsibilities or authority, or prior compliance oversight experience.

Violations

15. As a result of the conduct described above, Envision Capital and Druckman willfully² violated Sections 17(a)(2) and (3) of the Securities Act, which proscribes fraudulent practices in the offer and sale of a security. Proof of scienter is not required to establish a violation of Sections 17(a)(2) and (3) of the Securities Act. *Aaron v. SEC*, 446 U.S. 680, 697 (1980).

16. Envision Capital and Druckman were each investment advisers because they, in return for compensation, engaged in the business of advising others as to the advisability of investing in, purchasing, or selling securities. As a result of the conduct described above, Envision Capital and Druckman willfully violated Section 206(2) of the Advisers Act, which makes it unlawful for any adviser to engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any client or prospective client. Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963).

17. As a result of the conduct described above, Envision Capital willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder, which required an investment adviser to a pooled investment vehicle with custody of the pool's funds or securities to have the qualified custodian maintaining such funds or securities provide account statements to the investors in the pool at least quarterly, or alternately, if the adviser elects to send statements to investors, either arrange for the pool to undergo an annual surprise examination by an independent public accountant or have the pool audited by an independent public accountant and distribute the audited financial statements to the investors within 120 days of the end of the pool's fiscal year. Druckman willfully aided and abetted and caused Envision Capital's violations.

18. As a result of the conduct described above, Envision Capital willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and rules promulgated thereunder. Druckman willfully aided and abetted and caused Envision Capital's violations.

19. As a result of the conduct described above, Druckman willfully violated Sections 5(a) and (c) of the Securities Act, which prohibit the sale of, and offers to buy or sell, a security in interstate commerce unless a registration statement is in effect as to the security or an exemption from registration applies.

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)).

Undertakings

Envision Capital has undertaken to:

20. Retain, not later than 45 days after the date of this Order, at its expense, an independent consultant not unacceptable to the Commission's staff (the "Independent Consultant"). Envision Capital shall require the Independent Consultant to:
- a. Conduct a comprehensive review of Envision Capital's policies, procedures, practices, and internal controls with respect to compliance with the Advisers Act. Such review shall include, but not be limited to, custody rule compliance, computation of fees, books and records, internal accounting, property loan-to-value ratios, and redemptions, and the accuracy of disclosures to the Funds' current and prospective investors concerning these items (collectively, the "Policies/Controls"). Such review shall also include Envision Capital's policies, procedures, and practices with respect to the chief compliance officer ("CCO") and whether the CCO can effectively implement the compliance functions and responsibilities (collectively, the "Compliance Function Policies");
 - b. Make recommendations concerning the Policies/Controls and the Compliance Function Policies with a view to assuring compliance with the federal securities obligations and the Funds' disclosures to current and prospective investors;
 - c. Conduct an annual review, for each of the following two years from the date of the issuance of the Independent Consultant's initial report, to assess whether Envision Capital is complying with its revised Policies/Controls and whether the revised Policies/Controls are effective in achieving their stated purposes; and
 - d. Conduct a quarterly review, for each of the first three quarters of the two years from the date of the issuance of the Independent Consultant's initial report, to assess whether Envision Capital is complying with its revised Compliance Function Policies and whether the revised Compliance Function Policies are effective in achieving their stated purposes.
21. No later than 10 days following the date of the Independent Consultant's engagement, provide to the Commission staff a copy of an engagement letter detailing the Independent Consultant's responsibilities pursuant to paragraph 20 above. To ensure independence, Envision Capital shall not have the authority to terminate the Independent Consultant without prior written approval of the Commission's staff.
22. Arrange for the Independent Consultant to issue its first report within 90 days after the date of the engagement and the following two reports within 60 days following each subsequent quarterly period from the date of the Independent Consultant's first report. Within 10 days after the issuance of the reports, Envision Capital shall require the Independent Consultant to submit to Diana Tani of the Commission's Los Angeles Regional Office a copy of

the Independent Consultant's reports. The Independent Consultant's reports shall describe the review performed and the conclusions reached and shall include any recommendations deemed necessary to make the Compliance Policies/Controls adequate and address the deficiencies set forth in Section III of the Order.

23. Within thirty days of receipt of the Independent Consultant's reports, adopt all recommendations contained in the reports and remedy any deficiencies in its written policies, procedures, practices, and internal controls; provided, however, that as to any recommendation that Envision Capital believes is unnecessary or inappropriate, Envision Capital may, within fifteen days of receipt of the reports, advise the Independent Consultant in writing of any recommendations that it considers to be unnecessary or inappropriate and propose in writing an alternative policy or procedure designed to achieve the same objective or purpose.

24. With respect to any recommendation with which Envision Capital and the Independent Consultant do not agree, attempt in good faith to reach an agreement with the Independent Consultant within thirty days of receipt of the reports. In the event that Envision Capital and the Independent Consultant are unable to agree on an alternative proposal acceptable to the Commission's staff, Envision Capital will abide by the original recommendation of the Independent Consultant.

25. Within thirty days after the date of the Independent Consultant's second annual report, submit an affidavit to the Commission's staff stating that it has implemented any and all recommendations of the Independent Consultant, or explaining the circumstances under which it has not implemented such recommendations.

26. Cooperate fully with the Independent Consultant and provide the Independent Consultant with access to its files, books, records and personnel as reasonably requested for the Independent Consultant's review.

27. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Envision Capital, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Los Angeles Regional Office enter into any employment, consultant, attorney-client, auditing or other professional relationship with Envision Capital, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

28. Within thirty days after the date of the entry of this Order, Envision Capital shall disseminate, at its own expense, a copy of the Order to all existing clients and all current investors of the Funds and, for a period of two calendar years starting from the date of the entry of this Order, to all prospective clients and prospective investors of the Funds, including posting

a link to a copy of the Order on the home page, in a readily viewed area, of any and all of Envision Capital's website(s) for a period of six months.

29. Certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Diana Tani, Assistant Regional Director, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty days from the date of the completion of the undertakings.

30. For good cause shown, and upon timely application from Envision Capital or the Independent Consultant, the Commission's staff may extend any of the procedural dates set forth above.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 8A of the Securities Act, and Sections 203(e), 203(f), and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondents shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Sections 206(2) and 206(4) of the Advisers Act, and Rules 206(4)-2 and 206(4)-7 promulgated thereunder, and additionally as to Druckman, violations of Sections 5(a) and 5(c) of the Securities Act.

B. Respondents are censured.

C. Respondents shall, jointly and severally, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Envision Capital and Druckman as Respondents in these proceedings, the file number of these proceedings, a copy of which

cover letter and money order or check shall be sent to Michele Wein Layne, Los Angeles Regional Office, 5670 Wilshire Blvd., 11th Floor, Los Angeles, California 90036.

D. Respondents shall comply with the undertakings enumerated in Section III above.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, and Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), on the Respondents and his/its legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
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