

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3859 / June 20, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15940

In the Matter of TL VENTURES INC., 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 TL Ventures Inc. (“TL Ventures” or “Respondent”).

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 it 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 finds¹ that:

A. SUMMARY

1. These proceedings involve violations of: (1) the Commission’s “pay-to-play” rule for investment advisers by TL Ventures, an investment adviser to venture capital funds which invest in early-stage technology companies, and (2) the Advisers Act’s registration requirement by TL Ventures.

2. Rule 206(4)-5, promulgated under Section 206(4) of the Advisers Act, is a prophylactic rule designed to address pay-to-play abuses involving campaign contributions made by advisers or their covered associates to government officials who are in a position to influence the selection of advisers to manage government client assets, including public pension assets. Among other things, Rule 206(4)-5 prohibits investment advisers from providing advisory services for compensation to a government client (or to an investment vehicle in which a government entity invests), for two years after the adviser or certain of its executives or employees make a campaign contribution to certain elected officials or candidates. Rule 206(4)-5 does not require a showing of quid pro quo or actual intent to influence an elected official or candidate.

3. On April 12, 2011, a covered associate² of TL Ventures (the “Covered Associate”) made a \$2,500 campaign contribution to the campaign of a candidate for Mayor of Philadelphia, PA (the “Mayoral Contribution”). The Mayor of Philadelphia appoints three of the nine members of the City of Philadelphia Board of Pensions and Retirement (“Philadelphia Retirement Board”). In addition, on November 21, 2011, the Covered Associate made a \$2,000 campaign contribution to the Governor of Pennsylvania (the

"Gubernatorial Contribution"). The Governor of Pennsylvania appoints six of the eleven members of the board of the Pennsylvania State Employees' Retirement System ("SERS").

4. SERS has been an investor (called a "limited partner") in two TL Ventures funds, TL Ventures IV L.P. ("TL Ventures IV") and TL Ventures V L.P. ("TL Ventures V"), since 1999 and 2000, respectively. The Philadelphia Retirement Board has been a limited partner in TL Ventures V since 2000. As limited partners, SERS and the Philadelphia Retirement Board contractually committed to invest a stated amount of money in TL Ventures' funds and they made those investments over time. Limited partners in TL Ventures' funds are generally prohibited from withdrawing their money for the life of the fund, often 10 or more years.

5. During the two years after the Mayoral Contribution, TL Ventures continued to provide investment advisory services to TL Ventures V and continued to receive advisory fees attributable to such services. Similarly, during the two years after the Gubernatorial Contribution, TL Ventures continued to provide investment advisory services to TL Ventures IV, in addition to TL Ventures V, and continued to receive advisory fees attributable to such services. By continuing to provide advisory services for compensation to covered investment pools invested in by the Philadelphia Retirement Board and SERS within two years after political contributions by a covered associate to government officials in a position to influence the selection of investments by those pension funds, TL Ventures violated Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder.

6. Section 203(a) of the Advisers Act prohibits an investment adviser from using the mails or any means or instrumentality of interstate commerce in connection with its business as an investment adviser unless it is registered with the Commission or exempt from registration. Section 208(d) of the Advisers Act makes it unlawful for any person indirectly, or through or by any other person, to do any act or thing which would be unlawful for such person to do directly under the provisions of the Act or rule or regulation thereunder.

7. Effective March 30, 2012, TL Ventures and Penn Mezzanine Partners Management, L.P. ("Penn Mezzanine"), a related investment adviser, each claimed to be exempt from the Advisers Act's registration requirements. However, the facts and circumstances surrounding their relationship indicate that the two advisers were under common control, were not operationally independent of each other and thus should have been integrated as a single investment adviser for purposes of the applicable registration requirement and the applicability of any exemption. Once integrated, TL Ventures and Penn Mezzanine would not have qualified for any exemption from registration and therefore should have been registered effective March 30, 2012.

8. By using the mails or any means or instrumentality of interstate commerce in connection with its business as an investment adviser and not being registered with the Commission, TL Ventures, acting through or by Penn Mezzanine, violated Sections 203(a) and 208(d) of the Advisers Act.

B. RESPONDENT

9. TL Ventures is a Delaware corporation located in Wayne, Pennsylvania. TL Ventures is not registered with the Commission as an investment adviser. Prior to March 30, 2012, TL Ventures was exempt from Commission registration in reliance on Section 203(b)(3) of the Advisers Act and Rule 203-1(e) under the Advisers Act.³ From March 29, 2012, TL Ventures claimed to be an investment adviser solely to one or more venture capital funds and thus to be exempt under Section 203(l) of the Advisers Act from registration as an investment adviser. It has reported to the Commission as an "exempt reporting adviser" under Section 204(a) of the Advisers Act and Rule 204-4 thereunder.⁴ In its exempt reporting adviser report on Form ADV dated March 31, 2014, TL Ventures reported regulatory assets under management of approximately \$178 million in venture capital funds.

C. BACKGROUND

TL Ventures is an Adviser to "Covered Investment Pools"

10. TL Ventures is an adviser to venture capital funds which invest in early-stage technology companies. TL Ventures raised its last venture capital fund in 2008. TL Ventures acted as the investment adviser to

several venture capital funds, including TL Ventures IV and TL Ventures V, both of which constitute “covered investment pools” as defined in Advisers Act Rule 206(4)-5(f)(3) because they would be investment companies under Section 3(a) of the Investment Company Act of 1940 but for the exclusion from the definition of investment company provided by Section 3(c)(1) of the Investment Company Act of 1940. The funds have terms of 10 years, with the possibility of two one-year extensions following the initial term if approved by a majority-in-interest of the limited partners in the fund. Investments in TL Ventures Funds by SERS and the Philadelphia Retirement Board

11. In 1999, SERS committed to invest, and subsequently invested, \$35 million of its public pension money in TL Ventures IV. In addition, in 2000, SERS committed to invest, and subsequently invested, \$40 million of its public pension money in TL Ventures V.

12. In 2000, the Philadelphia Retirement Board committed to invest, and subsequently invested, \$10 million of its public pension money in TL Ventures V.

13. Both TL Ventures IV and TL Ventures V have been in wind down mode since 2010 and 2012, respectively. While these funds are in wind down mode, SERS continues to be a limited partner of TL Ventures IV and TL Ventures V, and the Philadelphia Retirement Board continues to be a limited partner of TL Ventures V.

Campaign Contributions to Government Officials

14. On April 12, 2011, the Covered Associate made a \$2,500 campaign contribution to a candidate for Mayor of Philadelphia, Pennsylvania. In addition, on November 21, 2011, the Covered Associate made a \$2,000 campaign contribution to the Governor of Pennsylvania. 15. Both candidates had the ability to influence the selection of investment advisers for their respective public pension funds. The Mayor of Philadelphia has authority to appoint the City’s Director of Finance, Managing Director and City Solicitor. Each of these city officials serves as a member of the nine member Philadelphia Retirement Board. The Philadelphia Retirement Board has influence over the retirement fund’s investments and the selection of investment advisers and pooled investment vehicles for the fund. The Governor of Pennsylvania has authority to appoint six members of the eleven member SERS board. The SERS board has influence over investments by the SERS pension fund and the selection of investment advisers and pooled investment vehicles for the fund.

TL Ventures Continues to Receive Compensation From SERS and the Philadelphia Retirement Fund

16. Advisers Act Rule 206(4)-5(a)(1) prohibits any investment adviser registered with the Commission, investment adviser required to be registered with the Commission, foreign private adviser, or exempt reporting adviser from providing investment advisory services for compensation to a “government entity”⁵ within two years after a contribution to an “official”⁶ of a government entity made by the investment adviser or any “covered associate” of the investment adviser. Advisers Act Rule 206(4)-5 includes a provision that applies the prohibitions of the rule to investment advisers, including exempt reporting advisers that manage assets of a government entity through covered investment pools such as hedge funds, private equity funds, venture capital funds and collective investment trusts.⁷ Advisers Act Rule 206(4)-5 does not require a showing of quid pro quo or actual intent to influence an elected official or candidate.

17. As public pension plans, the Philadelphia Retirement Board and SERS were “government entities” as defined in Advisers Act Rule 206(4)-5(f)(5). The contributor was a “covered associate” of TL Ventures as defined in Advisers Act Rule 206(4)-5(f)(2). The candidates who received the contributions were both “officials” (as defined in Advisers Act Rule 206(4)-5(f)(6)) of government entities because their respective offices had authority to appoint members who could influence the hiring of investment advisers by the respective government entities.

18. Under Advisers Act Rule 206(4)-5, the Mayoral Contribution triggered a two-year “time-out” on TL Ventures’ receiving compensation for advisory services from the Philadelphia Retirement Board. During the two years after the April 2011 Mayoral Contribution, TL Ventures continued to receive advisory fees attributable to the investment of the Philadelphia Retirement Board in TL Ventures V.⁸

19. Under Advisers Act Rule 206(4)-5, the Gubernatorial Contribution triggered a two-year “time out” on TL Ventures’ receiving compensation for advisory services from SERS. During the two years after the November 2011 Gubernatorial Contribution, TL Ventures continued to receive advisory fees attributable to the investment of SERS in TL Ventures IV and V.

TL Ventures and Penn Mezzanine Should Have Been Registered - The Advisers Claimed to Be Exempt from Registration

20. The Dodd-Frank Act repealed a prior exemption from registration under Section 203(b)(3) of the Advisers Act but mandated other exemptions. In connection with implementing the new exemptions, investment advisers that were previously exempt from registration under Section 203(b)(3) of the Advisers Act were required to be registered or file as exempt reporting advisers by March 30, 2012. On March 29, 2012, TL Ventures and Penn Mezzanine filed separate exempt reporting adviser reports on Form ADV with the Commission each claiming to be an exempt reporting adviser, and neither TL Ventures nor Penn Mezzanine registered with the Commission as an investment adviser under Section 203 of the Advisers Act. TL Ventures claimed that it qualified for an exemption from registration with the Commission based on Section 203(l) of the Advisers Act because it was an adviser solely to one or more venture capital funds. Penn Mezzanine claimed that it qualified for an exemption from registration with the Commission based on Rule 203(m)-1 under the Advisers Act because it acted solely as an adviser to private funds and had regulatory assets under management in the U.S. of less than \$150 million.

The Advisers were Operationally Integrated

21. On their exempt reporting adviser reports filed with the Commission, both TL Ventures and Penn Mezzanine report that they are under common control with each other. In addition, various employees and associated persons of TL Ventures held ownership stakes in TL Ventures and in the general partner and management company entities of Penn Mezzanine; among those, the Covered Associate and a managing director of TL Ventures held in the aggregate a majority ownership interest in TL Ventures and indirectly held in the aggregate more than a 25%, but less than a majority, ownership interest in Penn Mezzanine.

22. TL Ventures and Penn Mezzanine had several overlapping employees and associated persons, including individuals who provided investment advice on behalf of both TL Ventures and Penn Mezzanine. For example, two of the three members of Penn Mezzanine’s investment committee, which had sole and exclusive authority to approve any investment by Penn Mezzanine’s fund, also served as managing directors at TL Ventures and were significantly involved in providing investment advice on behalf of TL Ventures.

23. TL Ventures and Penn Mezzanine had significantly overlapping operations without any policies and procedures designed to keep the entities separate. Marketing materials for Penn Mezzanine made reference to TL Ventures and Penn Mezzanine as being a “partnership” and referenced Penn Mezzanine’s ability to leverage and benefit from this relationship, including outsourcing its back office functions to TL Ventures. In addition, Managing Directors of TL Ventures, who served on Penn Mezzanine’s investment committee, solicited potential investors for Penn Mezzanine’s funds, including soliciting past investors in TL Ventures’ funds. Moreover, neither adviser had adequate information security policies and procedures in place to protect investment advisory information from disclosure to the other. Also, employees and associated persons of Penn Mezzanine routinely used their TL Ventures email addresses to conduct business and communicate with outside parties about and on behalf of Penn Mezzanine.

The Advisers Did Not Qualify for Exemption from Registration

24. The Commission has stated that it will treat as a single adviser two or more affiliated advisers that are separate legal entities but are operationally integrated, which could result in a requirement for one or both advisers to register.⁹ Based upon the facts and circumstances, TL Ventures and Penn Mezzanine were operationally integrated and, therefore, were not eligible to rely on the claimed exemptions from registration.

25. When integrated with Penn Mezzanine, TL Ventures did not qualify for an exemption from

registration with the Commission under Section 203(l) of the Advisers Act because it was not an adviser solely to venture capital funds. Accordingly, as of March 30, 2012, TL Ventures should have registered with the Commission as an investment adviser under the Advisers Act.

D. VIOLATIONS

26. As a result of the conduct described above, TL Ventures willfully¹⁰ violated Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder, which makes it unlawful for any investment adviser registered (or required to be registered) with the Commission, or unregistered in reliance on the exemption available under Section 203(b)(3) of the Advisers Act, or that is an exempt reporting adviser, to provide investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser.

27. Section 203(a) of the Advisers Act makes it unlawful for any investment adviser, unless registered or exempt from registration, to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as an investment adviser. Section 208(d) of the Advisers Act makes it unlawful for any person indirectly, or through or by any other person, to do any act or thing which would be unlawful for such person to do directly under the provisions of the Advisers Act.¹¹ As described above, TL Ventures acted through or by Penn Mezzanine to engage in the business of providing investment advice without registering as an investment adviser and, as a result, TL Ventures willfully violated Sections 203(a) and 208(d) of the Advisers Act.

REMEDIAL EFFORTS

In determining to accept the Offer, the Commission considered remedial acts that the Respondent is undertaking, including steps to reorganize operations and separate its advisory functions from Penn Mezzanine, as well as the adoption of policies and procedures reasonably designed to ensure compliance with the applicable rules.

IV.

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

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

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Section 203(a) of the Advisers Act, including committing or causing any such violations indirectly, or through or by any other person, as prohibited by Section 208(d) of the Advisers Act, and shall cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder.

B. Respondent is censured.

C. Respondent shall, within 10 days of the entry of this Order, pay disgorgement of \$256,697 and prejudgment interest of \$3,197 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. 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 TL Ventures Inc. as the Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to LeeAnn Ghazil Gaunt, Chief, Municipal Securities and Public Pensions Unit, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 23rd Floor, Boston, MA 02110.

D. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$35,000 to the Securities and Exchange Commission. 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:

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Jill M. Peterson
Assistant Secretary

Footnotes

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.

2 "Covered associates" are officers and employees of the adviser who have a direct economic stake in the business relationship with the government client. Covered associates are defined to include: (i) any general partner, managing member or executive officer, or other individual with a similar status or function; (ii) any employee who solicits a government entity for the investment adviser and any person who supervises, directly or indirectly, such employee; and (iii) any political action committee controlled by the investment adviser or by any of its covered associates. Under the Rule, executive officers include: (i) the president; (ii) any vice president in charge of a principal business unit, division or function (such as sales, administration or finance); (iii) any other officer of the investment adviser who performs a policy-making function; or (iv) any other person who performs similar policy-making functions for the investment adviser. Rule 206(4)-5(f)(2) and (4).

3 The exemption from registration formerly contained in Section 203(b)(3) was repealed effective July 21, 2011 by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), and Rule 203-1(e) in effect extended that exemption until March 30, 2012. See Rules Implementing Amendments to the Investment Advisers Act of 1940, Advisers Act Release No. 3221 (June 22, 2011), 2011 SEC LEXIS 2149.

4 The Dodd-Frank Act created a category of advisers known as exempt reporting advisers (which generally were formerly advisers relying on the private adviser exemption contained in Section 203(b)(3), which has been repealed). Although exempt from Commission registration, exempt reporting advisers are required by Rule 204-4 under the Advisers Act to file reports with the Commission electronically on Form ADV through the IARD using the same process used by registered investment advisers.

5 A "government entity" means any state or political subdivision of a state, including: (i) any agency, authority, or instrumentality of the state or political subdivision; (ii) a pool of assets sponsored or established by the state or political subdivision or any agency, authority or instrumentality thereof, including, but not limited to a "defined benefit plan" as defined in the Internal Revenue Code, or a state general fund; (iii) a plan or program of a government entity; and (iv) officers, agents, or employees of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity. Rule 206(4)-5(f)(5).

6 "Official" includes any person who, at the time of the relevant contribution, was an incumbent, candidate or successful candidate for elective office of a government entity if the office is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity or has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity. Rule 206(4)-5(f)(6).

If the governor of a state can appoint at least part of a state pension fund's board, the governor is considered to be an official of the government entity. Political Contributions by Certain Investment Advisers, Investment Advisers Act Release No. 3043 at 44 n.143 (July 1, 2010) ("Adopting Release") ("For example, a state may have a pension fund whose board of directors, which has authority to hire an investment adviser, is constituted, at least in part, by appointees of the governor and members of the state legislature. In such circumstances, the governor and the members of the state legislature serving on the board would be officials of the government entity"). The Adopting Release cites as an example the Pennsylvania Public School Employees' Retirement Board, of which the governor can appoint two of the six board members. *Id.*

7 Prior to the implementation of the Dodd-Frank Act, Rule 206(4)-5 applied to, among others, advisers relying on the exemptions from registration previously available under Section 203(b)(3) of the Advisers Act, which was repealed.

8 Rule 206(4)-5 applies to investment advisers even if the government entity was already invested in the covered investment pool at the time of the contribution. Adopting Release at 44 n.130 ("[T]his deterrent effect is the basis for our view that the two-year time out should not apply only to 'new business'...").

9 See Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers With Less Than \$150 Million in Assets Under Management, and Foreign Private Advisers, Investment Advisers Act Release No. 3222 at 125 (June 22, 2011) [76 FR 39645, 39680 (July 6, 2011)].

10 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)).

11 Advisers Act Sections 203(a) and 208(d) do not require a showing of scienter.