

SEC Enforcement Case Summary Private Fund Manager Misappropriation of Fund Assets

On October 11, 2024, the SEC charged Jeffrey Aresenault, Old Greenwich Capital Advisors, LLC and OGCP Management Co, LLC, the manager and general partner of private funds Old Greenwich Capital Partners, L.P. (the "OGCP Fund") and OGCP Four Seasons Fund, LP with conducting a fraudulent scheme to misappropriate at least \$4.1 million from two private funds they advised and ultimately from the investors in those funds.

According to the SEC's complaint, the OGCP Fund was a fund-of-funds founded in 2004 to invest in a portfolio of other private funds. The fund raised most of its capital between 2005 and 2006 and was managed by Aresenault and a business partner who worked in Cleveland, Ohio. During the stock market crash in the fall of 2008, the OGCP Fund lost significant money and faced financial difficulties. Soon afterwards Aresenault split with his business partner and the OGCP Fund split into two separate funds and the business partner took with him a significant portion of the fund's assets under management. The professional split followed Aresenault's divorce in 2008 and resulted in financial difficulties for Aresenault, including delinquent taxes, a tax lien placed on his home in Greenwich, Connecticut, and a foreclosure on his mortgage.

Aresenault persuaded a fund investor to acquire a membership interest in the fund manager general partner, by paying Aresenault \$500,000 for a 30% interest these entities. The OGCP Fund's limited partnership agreement provided for an annual management fee of 1.5% of the limited partners' capital paid the manager and also provided that the general partner was entitled to a performance fee of approximately 10% of the partnership's net profits. The general partner was also entitled to reimbursement from the OGCP Fund for "expenses in connection with [the OGCP Fund's] operation, issuance of interests in [the OGCP Fund], and investment activities, or any other expense incurred with respect to [the OGCP Fund] activities," including, among others, investment expenses, legal expenses, accounting fees, and regulatory expenses such as filing fees. However, the fees generated by the OGCP Fund were not enough to cover the personal and business expenses Aresenault incurred. Aresenault misappropriated investor money from the OGCP Fund, and later from the Four Seasons Fund. He used the stolen money to pay his family's expenses, for his lifestyle in Greenwich, Connecticut, and for other business opportunities he pursued.

The SEC complaint noted that Aresenault caused the OGCP Fund to redeem most of the private fund investments in its portfolio for cash. After a private fund in the OGCP Fund's portfolio made a distribution or paid a redemption to the OGCP Fund, Aresenault would periodically transfer portions of that cash from the OGCP Fund's bank accounts to other accounts Aresenault or his family controlled whenever he needed it. The SEC stated that at most, Aresenault reinvested or repaid to investors only a small fraction of the distributions or redemptions received as part of the OGCP Fund. The SEC alleged that the defendants lied to and misled investors by overstating the value of the OGCP Fund's holdings and their respective capital accounts to conceal their theft.

The SEC complaint further explained that the defendants diverted cash from the OGCP Fund to seed the Four Seasons Fund in 2014. On subsequent OGCP Fund account statements, defendants represented to investors that the investors held positions in Aresenault's Four Seasons Fund. Nonetheless, after approximately one year, Aresenault and the fund manager liquidated the Four Seasons Fund's equity investments and transferred the fund's entire account to an account Aresenault and the fund manager controlled for their own benefit. Despite misappropriating the entirety of the Four Seasons Fund,

Arsenault and the manager continued to falsely report to investors that the Four Seasons Fund contained millions of dollars. The defendants allegedly took various measures to conceal the misappropriation.

The case was filed and is being litigated in U.S. District Court for the District of Connecticut. While it appears to be a straightforward fraud against the private funds and their investors, it serves as a reminder that a private fund manager may be tempted to misappropriate assets to recoup losses after a market downturn but must act honorably to disclose losses and properly liquidate and wind-down a fund if it no longer has sufficient financial resources to manage the fund.

See Summary - <https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26160>