
*
IN THE MATTER OF: *
*
THE CHEETAH FUND L.P. *
*
C.M. ALLEN CAPITAL *
MANAGEMENT, INC. *
*
CRAIG MURFEE ALLEN *
(CRD. No. 2625516) *
*
(“Respondents”) *
*

ORDER TO CEASE AND DESIST
ORDER TO MAKE RESTITUTION
NOTICE OF INTENT TO FINE
AND
NOTICE OF RIGHT TO HEARING
DOCKET NO. CRF-24-202310-S

I. PRELIMINARY STATEMENT

1. The Banking Commissioner (“Commissioner”) is charged with the administration of Chapter 672a of the General Statutes of Connecticut, the Connecticut Uniform Securities Act (“Act”), and Sections 36b-31-2 to 36b-31-33, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”) promulgated under the Act.

2. Pursuant to Section 36b-26(a) of the Act, the Commissioner, through the Securities and Business Investments Division (“Division”) of the Department of Banking, has conducted an investigation into the activities of Respondents to determine if Respondents have violated, are violating or are about to violate provisions of the Act or Regulations (“Investigation”).

3. As a result of the information obtained during the Investigation, the Commissioner has reason to believe that Respondents have violated certain provisions of the Act and Regulations. Accordingly, the Commissioner believes that a basis exists to i) issue a cease-and-desist order against Respondents pursuant to Section 36b-27(a) of the Act; ii) order that Respondents make restitution pursuant to Section 36b-27(b) of the Act; and iii) impose a fine upon Respondents pursuant to Section 36b-27(d) of the Act.

II. RESPONDENTS

4. The Cheetah Fund L.P. (“Cheetah Fund”) is an investment fund and Georgia limited partnership formed on May 8, 1998, whose principal place of business and address last known to the Commissioner is 3090 East Paces Ferry Road, Suite 77, Atlanta, Georgia 30305. The Cheetah Fund began operating as an investment fund in approximately 2011.

5. C.M. Allen Capital Management, Inc. (“C.M. Management”) is a Georgia corporation formed on April 23, 1998, and administratively dissolved on October 22, 2020 for failing to make required filings, whose address last known to the Commissioner is 3060 Peachtree Road, NE, Suite 1400, Atlanta, Georgia 30305. C.M. Management is and has always been the general partner of the Cheetah Fund.

6. Craig Murfee Allen (CRD No. 2625516) (“Allen”) is an individual whose address last known to the Commissioner is 3185 Nancy Creek Rd NW Atlanta, Georgia 30327. Allen formed C.M. Management to, among other things, serve as the general partner of the Cheetah Fund. Allen is the President and control person of C.M. Management, and the control person and alter ego of the Cheetah Fund. At all times relevant hereto, Allen exercised control and all decision making for C.M. Management and the Cheetah Fund.

III. STATEMENT OF FACTS

7. In 2011, Allen and C.M. Management began managing the Cheetah Fund as an investment fund for Allen’s friends and family. In the beginning of 2021, Allen, individually and on behalf of C.M. Management, began offering and selling limited partnership interests in the Cheetah Fund to other investors. Specifically, Allen and C.M. Management created offering materials for the Cheetah Fund to solicit investors for the Cheetah Fund, including a document referred to by Allen as a “Tear Sheet”. The Tear Sheet was a one-page document drafted by Allen summarizing what the Cheetah Fund was and made multiple representations about its performance. The Tear Sheet, represented the following, among other things, as of December 2020:

- The Cheetah Fund is a “Long/Short Equity fund seeking to take advantage of short-term ‘catalyst driven’ stock market opportunities.”

- “The Portfolio manager is C.M. Allen Capital Management Inc. managed by Craig M. Allen with an over 20 year [sic] track record of exceptional returns.”
- The Cheetah Fund’s average annual return since 2011 was 39.91%;
- The Cheetah Fund’s annual returns for years 2018, 2019 and 2020 was 73.24%, 48.82% and 69.76%, respectively;
- A third-party accounting firm (“Accounting Firm X”) was the Cheetah Fund’s auditor;

8. Investor A is an individual who resides in Connecticut and who learned about Allen and the Cheetah Fund from a colleague. In early 2021, Respondents solicited Investor A to invest in the Cheetah Fund by providing him with the Tear Sheet. In addition, Allen represented to Investor A that Allen’s father-in-law, a well-known former Pro Football Hall of Fame player (“Famous Investor”), invested in the Cheetah Fund and that Allen helped manage some of the Famous Investor’s money. Allen developed a narrative that the Cheetah Fund was a legitimate successful investment because the Famous Investor and members of the Famous Investor’s family invested in it. Moreover, Respondents’ offering documents represented that the Cheetah Fund did not have management fee and that the General Partner was only entitled to 20% of net profits of the Fund *if* the Fund exceeded a 10% rate of return.

9. Based on the representations made by Respondents in the Tear Sheet and conversations with Allen, in February 2021, Investor A made an initial investment in the Cheetah Fund of \$200,000.

10. From February 2021 through November 2022, Allen emailed Investor A monthly account statements that consistently reflected that Investor A’s investment had gains, including when the stock market was performing poorly. The impressive returns reflected on his account statements induced Investor A to add to his investment in the Cheetah Fund several times, including an additional investment of \$600,000 in January 2022 and \$300,000 in March 2022. In total, Investor A invested \$1,550,000 in the Cheetah Fund.

11. In September 2022, Investor A submitted a redemption request to Respondents to get back \$1,000,000 of his money invested in the Cheetah Fund. Allen did not return Investor A’s money to him as requested, and in January 2023, Allen sent an email to all investors in the Cheetah Fund that he (Allen)

was entering a rehabilitation facility and that the fund would be in all cash for a period of time. To date, despite multiple requests, Investor A has not received any of his money invested in the Cheetah Fund back.

12. The Cheetah Fund limited partnership interests constitute securities within the meaning of Section 36b-3(19) of the Act, which securities were not registered under Section 36b-16 of the Act, nor were they the subject of a filed exemption claim or claim of covered security status.

13. Information obtained during the Investigation reflects that Allen used at least a portion of the money invested in the Cheetah Fund to pay his personal expenses, including but not limited to, the purchase of cars and tuition for his children's school. Specifically, from approximately July 2021 and January 2023, Allen transferred approximately \$1,800,000 from the Cheetah Fund to his personal bank account despite Allen's representation in the offering materials that there was no management fee and that he was only entitled to 20% of net profits of the Fund if the Fund exceeded a 10% rate of return. Information obtained during the Investigation reflects that the Cheetah Fund's rate of return did not ever exceed 10%.

14. Respondents' representation in the Tear Sheet that Accounting Firm X had audited the Cheetah Fund was false. Accounting Firm X ceased acting as the Cheetah Fund's auditor in 2019. On January 27, 2023, Accounting Firm X sent Allen a letter stating that Respondents' use of Accounting Firm X's name was unauthorized and demanded that the Cheetah Fund cease using its name. Moreover, Allen's representation that the Famous Investor invested in the Cheetah Fund during the relevant period of time was also false.

15. In correspondence between Allen and another Cheetah Fund investor in January 2023 (a nonrespondent), Allen confessed that he reported gains when there were in fact losses in investors' accounts and that there was no money left in the Cheetah Fund.

16. On February 21, 2024, a complaint was filed by approximately sixteen investors of the Cheetah Fund in the United States District Court for the Northern District of Georgia against Allen and C.M. Management and other related defendants (the "Complaint"). *Grady Kittrell et al. v. Craig Allen et al.*,

Civil Action No. 1:24-cv-00786 (N.D.Ga., filed February 21, 2024). (Investor A is not a plaintiff in the Complaint). The Complaint alleges, among other things, that Allen and C.M. Management violated The Racketeer Influenced and Corrupt Organizations Act and engaged in securities fraud in violation of the Georgia Uniform Securities Act of 2008, and that Allen engaged in securities fraud in violation of the Securities Exchange Act of 1934.

17. On April 24, 2024, the Securities and Exchange Commission (“SEC”) filed a Complaint against Allen in the United States District Court for the Northern District of Georgia Atlanta Division based on the aforementioned facts (the “SEC Complaint”). *Securities and Exchange Commission v. Craig Allen, Civil Action No. 1:24-cv-01771* (N.D.Ga). The SEC Complaint states that Allen “perpetrated a multi-million-dollar fraud”, alleging that, among other things, Allen made multiple misrepresentations to investors to induce them to invest in the Cheetah Fund and misappropriated investor funds from the Cheetah Fund to pay his personal expenses. Specifically, the SEC Complaint charges Allen with securities fraud in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act of 1933, securities fraud in violation of Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder, and securities fraud in violation of Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940. The SEC Complaint is currently pending.

IV. STATUTORY BASIS FOR ORDER TO CEASE AND DESIST, ORDER TO MAKE RESTITUTION AND ORDER IMPOSING FINE

a. Violation of Section 36b-16 of the Act by Respondents – Offer and/or Sale of Unregistered Securities

18. Paragraphs 1 through 17, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

19. Respondents offered and/or sold unregistered securities to at least one investor, as more fully described in paragraph 12. The offer and sale of such securities absent registration constitutes a violation of Section 36b-16 of the Act, which forms a basis for an order to cease and desist to be issued against Respondents under Section 36b-27(a) of the Act, an order that Respondents make restitution under

Section 36b-27(b) of the Act, and for the imposition of a fine upon Respondents under Section 36b-27(d) of the Act.

b. Violation of Section 36b-4(a) of the Act by Respondents –
Fraud in Connection with the Offer and Sale of any Security

20. Paragraphs 1 through 19, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

21. The conduct of Respondents, as more fully described in paragraphs 8 through 17, inclusive, constitutes, in connection with the offer, sale or purchase of any security, directly or indirectly employing a device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person. Such conduct constitutes a violation of Section 36b-4(a) of the Act, which forms a basis for an order to cease and desist to be issued against Respondents under Section 36b-27(a) of the Act, an order that Respondents make restitution under Section 36b-27(b) of the Act, and for the imposition of a fine upon Respondents under Section 36b-27(d) of the Act.

**V. ORDER TO CEASE AND DESIST, ORDER TO MAKE RESTITUTION,
NOTICE OF INTENT TO FINE AND NOTICE OF RIGHT TO HEARING**

WHEREAS, as a result of the Investigation, the Commissioner finds that, with respect to the activity described herein, **THE CHEETAH FUND L.P., C.M. ALLEN CAPITAL MANAGEMENT INC. and CRAIG MURFEE ALLEN** have each committed at least one violation of Section 36b-16 of the Act, and at least one violation of Section 36b-4(a) of the Act;

WHEREAS, the Commissioner further finds that the issuance of an Order to Cease and Desist, Order to Make Restitution, and the imposition of a fine upon Respondents is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policies and provisions of the Act;

WHEREAS, notice is hereby given to Respondents that the Commissioner intends to impose a maximum fine not to exceed one hundred thousand dollars (\$100,000) per violation upon Respondents;

WHEREAS, the Commissioner **ORDERS** that **THE CHEETAH FUND L.P.** and its employees, officers, representatives, affiliates and successors in interest, **CEASE AND DESIST** from directly or indirectly violating the provisions of the Act and Regulations, including without limitation, (1) offering and selling unregistered securities in or from Connecticut; and (2) in connection with the offer, sale or purchase of any security, directly or indirectly employing any device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

WHEREAS, the Commissioner **ORDERS** that **C.M. ALLEN CAPITAL MANAGEMENT INC.**, its employees, officers, representatives, affiliates and successors in interest, **CEASE AND DESIST** from directly or indirectly violating the provisions of the Act and Regulations, including without limitation, (1) offering and selling unregistered securities in or from Connecticut; and (2) in connection with the offer, sale or purchase of any security, directly or indirectly employing any device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

WHEREAS, the Commissioner **ORDERS** that **CRAIG MURFEE ALLEN CEASE AND DESIST** from directly or indirectly violating the provisions of the Act and Regulations, including without limitation, (1) offering and selling unregistered securities in or from Connecticut; and (2) in connection with the offer, sale or purchase of any security, directly or indirectly employing any device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are

made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

WHEREAS, the Commissioner **ORDERS** that Respondents **MAKE RESTITUTION** of any sums obtained as a result of Respondents' violations of Sections 36b-16 and 36b-4(a) of the Act, plus interest at the legal rate set forth in Section 37-1 of the General Statutes of Connecticut. Specifically, the Commissioner **ORDERS** that:

1. Within thirty (45) days from the date this Order to Make Restitution becomes permanent, Respondents shall reimburse Investor A \$1,550,000, plus interest. Such restitution shall be made by certified check, and shall be sent by certified mail, return receipt requested, to Investor A; and
2. Within forty-five (60) days from the date this Order to Make Restitution becomes permanent, Respondents shall provide the Division with proof in the form of copies of the certified check and the return receipt required by paragraph 1 of Section VI of this Order to Cease and Desist, Order to make Restitution, Notice of Intent to Fine and Notice of Right to Hearing (collectively "Order"), that Respondents have reimbursed Investor A \$1,550,000 plus interest, in connection with the Investment Agreement.

THE COMMISSIONER FURTHER ORDERS THAT, pursuant to Section 36b-15 of the Act, Respondents will be afforded an opportunity for a hearing on the allegations set forth above if a written request for a hearing is received on behalf of each Respondent by the Department of Banking, Securities and Business Investments Division, 260 Constitution Plaza, Hartford, Connecticut 06103-1800 or submitted by e-mail to DOB.hearingsupport@ct.gov within fourteen (14) days following Respondents' receipt of this Notice. To request a hearing, complete and return the enclosed Appearance and Request for Hearing Form to the above address. If a Respondent will not be represented by an attorney at the hearing, please complete the Appearance and Request for Hearing Form as "pro se" to one of the above referenced addresses.

If a hearing is requested, it will be held in person at the Department's offices. Once a written request for a hearing is received, the Commissioner may issue a notification of hearing and designation of hearing officer that acknowledges receipt of a request for a hearing, designates a hearing officer and sets the date of the hearing in accordance with Section 4-177 of the Connecticut General Statutes and Section

36a-1-21 of the Regulations of Connecticut State Agencies. At the discretion of the Hearing Officer, for good cause shown, the Hearing Officer may approve requests for remote participation in the hearing by a Respondent, witness, or attorney. If such requests are approved by the Hearing Officer, such remote participation will be conducted via videoconference. If a hearing is requested, the hearing will be held on July 2, 2024, at 10 a.m.

If a hearing is requested, it will be held in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, unless a Respondent fails to appear at the requested hearing. At such hearing, each Respondent will have the right to appear and present evidence, rebuttal evidence and argument on all issues of fact and law to be considered by the Commissioner. Remote participation in a hearing will be held in accordance with Section 1-225a of the Connecticut General Statutes, and the Remote Hearing Guidelines available on the Department's website at <https://portal.ct.gov/dob>.

If any Respondent does not request a hearing within the time period prescribed or fails to appear at any such hearing, the allegations herein against such Respondent will be deemed admitted. Accordingly, the Order to Cease and Desist and Order to Make Restitution shall remain in effect and become permanent against any such Respondent, and the Commissioner may order that the maximum fine be imposed upon any such Respondent.

Dated at Hartford, Connecticut,
this 20th of May 2024.

_____/s/_____
Jorge L. Perez
Banking Commissioner

CERTIFICATION

I hereby certify that on this 22nd day of May 2024, I caused to be mailed by certified mail, return receipt requested, the foregoing Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Fine and Notice of Right to Hearing to The Cheetah Fund L.P., 3233 Andrews Court NW, Atlanta, Georgia 30305, certified mail no. 9589071052701542923199; C.M. Allen Capital Management, Inc., 3233 Andrews Court NW, Atlanta, Georgia 30305, certified mail no. 9589071052701542923205; Craig Murfee Allen, 3233 Andrews Court NW, Atlanta, Georgia 30305, certified mail no. 9589071052701542923212; Craig Murfee Allen c/o Robert A. Deyton Detention Facility, 11866 Hastings Bridge Rd in Lovejoy, Georgia 30250 certified mail no. 9589071052701542923236; Craig Murfee Allen, c/o V. Natasha Perdeu Silas, Federal Defender Program Inc.-Atlanta, Suite 1500, Centennial Tower, 101 Marietta Street, NW, Atlanta, GA 30303 certified mail no. 9589071052701542923243; via email to natasha_silas@fd.org; and via email to craig@cmallencapital.com.

/s/

Tiffany Thibodeau
Paralegal Specialist