

ADMINISTRATIVE PROCEEDING
File No. 3-17283

SEC Charges Manager of Equipment Leasing Funds with Causing Financial Reporting Violations

June 10, 2016 – The Securities and Exchange Commission today announced that ICON Capital LLC, a Manhattan-based entity that manages equipment leasing funds, has agreed to settle charges that it caused four of its funds to report materially inaccurate financial results in their SEC filings. ICON has agreed to settle the SEC charges by, among other things, paying a \$750,000 penalty.

According to the SEC's order instituting a settled administrative proceeding, the four funds' financial results were misstated primarily due to accounting errors relating to the impairment of significant fund assets that declined in value following the global financial crisis, and that ICON failed to comply with Generally Accepted Accounting Principles (GAAP) on multiple occasions when assessing whether and to what extent the recorded value of certain assets needed to be impaired and when addressing related financial reporting issues.

The SEC's order finds that ICON manages a variety of equipment leasing funds, which file periodic reports and financial statements with the SEC. During the relevant period, one of ICON's primary investment strategies was for these funds to purchase and then lease large commercial shipping vessels. Beginning in 2009, the severe downturn in the world economy following the financial crisis resulted in a sharp drop in shipping lease rates and vessel sale prices that lasted for several years. In response to the depressed market, ICON began using for impairment and valuation purposes a methodology developed by members of the shipping industry known as the Hamburg Ship Evaluation Standard (Hamburg Method), which uses ten-year historical average prices to estimate future lease rates. The SEC's order finds that ICON's exclusive reliance on the Hamburg Method's historical data to make fair value and related accounting determinations in situations where ICON possessed relevant contemporaneous market sales data and other relevant evidence contravened GAAP.

According to the SEC's order, ICON's accounting errors resulted in material overstatements of net income (or understatements of net loss) by the four relevant funds that ranged as high as nearly 600 percent. In some instances, a multi-million dollar profit was reported when, in fact, the fund had incurred a multi-million dollar loss. ICON's errors also caused the funds to record and report overstated asset values which, in turn, led to overstatement of members' equity by as much as 78 percent. The order finds that, as a result of the errors, the funds at issue failed to take required asset value impairments, overstated post-impairment asset values when impairments were taken or understated depreciation expenses in multiple reporting periods from 2009 through 2012.

The SEC order finds that ICON was a cause of violations by the relevant funds of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 and Rules 12b-20, 13a-1 and 13a-13. Without admitting or denying the findings, ICON consented to the order and agreed to pay

the \$750,000 penalty. The order also requires ICON to cease and desist from committing or causing any violations and any future violations of the above provisions of the federal securities laws.

The SEC's investigation, which is continuing, has been conducted by Kenneth Gottlieb, David Austin, David Zetlin-Jones and George Stepaniuk of the SEC's New York office. The matter is being supervised by Sanjay Wadhwa.

See also: [SEC Order - ICON Capital LLC](#)