

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 94877 / May 9, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-19266

In the Matter of	:	
	:	
	:	
Foundations Asset Management,	:	NOTICE OF PROPOSED PLAN OF
LLC, Michael W. Shamburger, and	:	DISTRIBUTION AND
Rob E. Wedel,	:	OPPORTUNITY FOR COMMENT
	:	
	:	
Respondents.	:	

Notice is hereby given, pursuant to Rule 1103 of the United States Securities and Exchange Commission’s (“Commission”) Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”), 17 C.F.R. § 201.1103, that the Division of Enforcement has submitted to the Commission a proposed plan of distribution (the “Proposed Plan”) for the distribution of monies paid in the above-captioned matter.

On July 24, 2019, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 and 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 (the “Order”)¹ against Foundations Asset Management, LLC (“FAM”), Michael W. Shamburger (“Shamburger”), and Rob E. Wedel (“Wedel”) (collectively, the “Respondents”). In the Order, the Commission found that conflicts of interest were not properly disclosed, and that broker-dealer registration violations were committed by registered investment adviser FAM, and its two principals, Shamburger and Wedel. From May 2013 through June 2016, FAM improperly received approximately \$254,000 in compensation from private real estate fund Alaska Financial Company III LLC (“AFC III”) and AFC III’s manager, McKinley Mortgage Co. LLC (“McKinley”), while acting as an unregistered broker. FAM, through Shamburger and Wedel, solicited clients and recommended that they invest approximately \$12 million in AFC III promissory notes. The Commission further found that FAM had two undisclosed compensation agreements with McKinley regarding its clients’ AFC III investment: compensation calculated as a percentage of an initial investment and trailing fees based on FAM client investments that remained with AFC III each quarter. The Commission also found false statements and misleading statements in ADV forms that FAM, through Shamburger, filed with the Commission between March 2014 and March 2015 regarding the compensation it received for selling AFC III

¹ Securities Act Rel. No. 86446 (July 24, 2019).

securities and advising FAM clients. In total, the Commission ordered the Respondents to pay \$253,784.00 in disgorgement, \$25,163.00 in prejudgment interest, and \$160,000.00 in civil money penalties, of which \$114,000 of the disgorgement was deemed satisfied by the undertaking contained in paragraph 30 of the Order for a total of \$324,947.00, to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid, along with the disgorgement and interest paid, can be distributed to harmed investors (the “Fair Fund”).

The Fair Fund includes the \$324,947.00 paid by the Respondents. The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Fair Fund has been deposited in an interest-bearing account at the U.S. Department of the Treasury’s Bureau of the Fiscal Service, and any interest accrued will be added to the Fair Fund.

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Plan from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm>. Interested persons may also obtain a written copy of the Proposed Plan by submitting a written request to Allison Moon, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876. All persons who desire to comment on the Proposed Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;
2. by using the Commission’s Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or
3. by sending an e-mail to rule-comments@sec.gov.

Comments submitted by email or via the Commission’s website should include “Administrative Proceeding File No. 3-19266” in the subject line. Comments received will be publicly available. Persons should submit only information they wish to make publicly available.

THE PROPOSED PLAN

The Net Available Fair Fund² is comprised of the \$324,947.00 in disgorgement, prejudgment interest, and civil money penalties paid by the Respondents, plus interest and income earned thereon, less taxes, fees, and expenses. The Proposed Plan provides for the distribution of the Net Available Fair Fund to investors in AFC III promissory notes during the Relevant Period and who suffered a Recognized Loss as calculated by the methodology used in the Plan of Allocation in the Proposed Plan.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.³

Vanessa A. Countryman
Secretary

² All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Proposed Plan.

³ 17 C.F.R. § 200.30-4(a)(21)(iii).