

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99945 / April 11, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-20252

In the Matter of

Scott T. Wolfrum,

Respondent.

ORDER APPROVING
PLAN OF DISTRIBUTION

ADMINISTRATIVE PROCEEDING
File No. 3-20253

In the Matter of

Tyler C. Sadek,

Respondent.

On March 24, 2021, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, and Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Wolfrum Order”)¹ against Scott T. Wolfrum (“Wolfrum”). In the Wolfrum Order, the Commission found that Wolfrum failed to disclose conflicts of interest when recommending that his advisory clients invest in Foundry Mezzanine Opportunity Fund (“FMOF” or the “Fund”), a private fund that provides lending to and invests in small businesses. In the Wolfrum Order, the Commission further found that, from December 2015 to June 2018, Wolfrum sold more than \$20 million in interests in FMOF, almost all of which were recommended by Wolfrum and sold to his advisory clients. Wolfrum failed to disclose to his clients the conflicts of interest created by his and his family member’s financial interests in two of the Fund’s holdings and Wolfrum’s receipt of \$140,125.00 in finder’s fees for facilitating two different investments by the Fund.

¹ Exchange Act Rel. No. 91401 (Mar. 24, 2021).

Also on March 24, 2021, the Commission issued a separate, but related settled Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Sadek Order”) against Tyler C. Sadek (“Sadek”).² In the Sadek Order, the Commission found that from 2016 to 2017, Sadek, a principal of Foundry Capital Group, LLC, an Indiana investment adviser to the FMOF, reviewed, edited, and approved newsletters issued to the Fund’s investors and prospective investors that contained misleading statements and omissions. Specifically, the newsletters contained misleading statements and omissions about the financial and operational condition of Fund holdings and expected annual interest from Fund holdings.

In their respective orders, the Commission ordered Wolfrum to pay \$140,125.00 in disgorgement, \$21,354.00 in prejudgment interest, and a \$75,000.00 civil money penalty and Sadek to pay a \$30,000.00 civil money penalty, for a collective total of \$266,479.00 to the Commission; and created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the monies collected can be distributed to harmed investors.

On November 22, 2023, the Commission issued an order consolidating the Fair Fund established in the Sadek Order with the Fair Fund established in the Wolfrum Order for the purposes of distribution administration (the “Fair Fund”).³

Wolfrum and Sadek have paid in full. The Fair Fund consists of the \$266,479.00 collected from Wolfrum and Sadek pursuant to their respective Orders and has been deposited in a Commission-designated account at the United States Department of the Treasury. Any interest accrued will be added to the Fair Fund.

The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Fair Fund and has been deposited in a Commission-designed account at the U.S. Department of the Treasury, and any interest accrued will be added to the Fair Fund.

On February 12, 2024, the Division of Enforcement, pursuant to delegated authority, published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”),⁴ pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”);⁵ and simultaneously posted the Proposed Plan of Distribution (the “Proposed Plan”). The Notice advised interested persons that they could obtain a copy of the Proposed Plan from the Commission’s public website or by submitting a written request to Keshia Ellis, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5306. The Notice also advised that all persons desiring to comment on the Proposed Plan could submit their comments, in writing, within 30 days of the Notice. The Commission received no comments on the Proposed Plan during the comment period.

² Advisers Act Rel. No. 5707 (Mar. 24, 2021).

³ Order Consolidating Fair Funds, Exchange Act Rel. No. 99010 (Dec. 4, 2023).

⁴ Exchange Act Rel. No. 99513 (Feb. 12, 2024).

⁵ 17 C.F.R. § 201.1103.

The Division of Enforcement now requests that the Commission approve the Proposed Plan.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules,⁶ that the Proposed Plan is approved, and the approved Plan of Distribution shall be posted simultaneously with this order on the Commission's website at www.sec.gov.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁷

Vanessa A. Countryman
Secretary

⁶ 17 C.F.R. § 201.1104.

⁷ 17 C.F.R. § 200.30-4(a)(21)(iv).