

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84675 / November 29, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-17740

In the Matter of

Augustine Capital Management,
LLC (F/K/A Augustine Capital
Management, Inc.), John T.
Porter, and Thomas F.
Duszynski, CPA,

Respondents.

NOTICE OF PROPOSED PLAN OF
DISTRIBUTION AND
OPPORTUNITY FOR COMMENT

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, 17 C.F.R. § 201.1103, that the Division of Enforcement has submitted to the Commission a proposed plan of distribution ("Distribution Plan") for the distribution of monies paid by Augustine Capital Management, LLC (f/k/a Augustine Capital Management, Inc.) ("ACM"), John T. Porter ("Porter"), and Thomas F. Duszynski, CPA ("Duszynski") (collectively, the "Respondents") in settlement of the above-captioned administrative proceedings.

On December 20, 2016, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Sections 203(e) 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 against ACM; and pursuant to Sections 203(f) and 203(k) and Section 9(b) of the Investment Company Act of 1940 against Porter and Duszynski.¹ The Commission alleged, among other things, that Respondents J. Porter and Duszynski, together with Brian D. Porter, and ACM, in turn, acted as an investment adviser for the Fund. The Respondents caused the Fund to engage in conflicted transactions without disclosure to, or the consent of, the Fund's investors. Respondents invested in and lent money to two entities in which the ACM owners had an interest. Respondents also lent an ACM owner, Duszynski, money to fund his investment in a business venture with other ACM owners that later failed, saddling the Fund and its investors with the resulting losses. Respondents also collected nearly \$1 million in investor funds by charging the Fund for ACM's expenses. Respondents also provided investors with account statements that did not accurately reflect the market value of the underlying investments.

¹ Advisers Act Rel. No. 4591 (Dec. 20, 2016).

On October 26, 2017, the Commission issued an Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 and Instituting Public Administrative Proceedings, and Imposing Sanctions Pursuant to Rule 102(e) of the Commission’s Rules of Practice as to Thomas F. Duszynski, CPA (the “Order”).² In accordance with the Order, the Respondents have paid a total of \$1,003,306.11 in disgorgement, prejudgment interest, and civil money penalties to the Commission.

The Order created a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, for the funds paid by the Respondents (the “Fair Fund”). The Fair Fund is subject to the continuing jurisdiction and control of the Commission and the Fair Fund has been deposited at the United States Department of Treasury’s Bureau of Fiscal Services (“BFS”) for investment. Other than potential interest income from the BFS investment, the Commission does not anticipate that the Fair Fund will receive additional funds.

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested parties 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 parties may also obtain a written copy of the Plan by submitting a written request to Michael S. Lim, Esq., United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876. All persons who desire to comment on the Plan may submit their comments, in writing, no later than thirty (30) days from the publication 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 should include “Administrative Proceeding File No. 3-17740” in the subject line. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available.

² Advisers Act Rel. No. 4800 (Oct. 26, 2017).

THE DISTRIBUTION PLAN

The Fair Fund is comprised of the amounts of disgorgement (\$685,514.73), prejudgment interest (\$42,791.38), and civil money penalties (\$275,000) paid by the Respondents to the Commission. As set forth in the Plan, the proposed methodology allocates the Fair Fund according to each Eligible Investor's³ Net Harm Amount, calculated as the sum of each Eligible Investor's FT Investing LLC Amount, Inflation Expense Amount, NAV Expense Amount, and/or Porter Withdrawal Amount.

For the Commission, by its Secretary, pursuant to delated authority.

Brent J. Fields
Secretary

³ All capitalized terms used herein shall have the same meanings ascribed to them in the Plan.