UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97957 / July 20, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6352 / July 20, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21533

In the Matter of **MONROE CAPITAL MANAGEMENT ADVISORS, LLC,** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 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**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Monroe Capital Management Advisors, LLC ("Respondent" or "Monroe Capital").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 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 ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise from violations of the Advisers Act and Exchange Act by Monroe Capital Management Advisors, LLC, a registered investment adviser, in connection with the firm's activities related to certain special purpose acquisition companies ("SPACs"). First, Monroe Capital failed to timely disclose conflicts of interest and failed to adopt reasonably designed written policies and procedures regarding Monroe Capital personnel's ownership interests in SPAC sponsors and Monroe Capital's practice of investing client assets in affiliated SPACs. Second, Monroe Capital failed to timely file amended reports on Schedule 13G concerning changes to its and its affiliates' beneficial ownership of the common stock of a public company formed as a result of a SPAC business combination. As a result, Monroe Capital violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and violated and caused violations of Section 13(d) of the Exchange Act and Rule 13d-2 thereunder.

Respondent

2. **Monroe Capital Management Advisors, LLC** ("**Monroe Capital**"), a Delaware limited liability company with its principal place of business in Chicago, Illinois, has been registered with the Commission as an investment adviser since 2012. Monroe Capital provides investment advisory services to pooled investment vehicles. In its Form ADV dated April 27, 2023, Monroe Capital reported that it had approximately $15.6 billion in regulatory assets under management.

Other Relevant Entities

3. Thunder Bridge Acquisition, Ltd. ("Thunder Bridge I") was a Cayman Islands exempted company formed in September 2017 that consummated an initial public offering as a SPAC on June 18, 2018. Monroe Capital personnel and affiliates owned 25% of Thunder Bridge I's sponsor. Thunder Bridge I entered into a business combination agreement that closed on July 11, 2019, as a result of which Repay Holdings Corporation was formed as a public company with common stock that trades on the Nasdaq under the ticker symbol "RPAY."

4. Thunder Bridge Acquisition II, Ltd. ("Thunder Bridge II") was a Cayman Islands exempted company formed in February 2019 that consummated an initial public offering as a SPAC on August 13, 2019. Monroe Capital personnel and affiliates owned over 20% of Thunder Bridge II's sponsor. Thunder Bridge II entered into a business combination agreement that closed on June 10, 2021.

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. MCAP Acquisition Corporation ("MCAP") was a Delaware corporation incorporated in November 2020 that consummated an initial public offering as a SPAC on March 2, 2021. Monroe Capital personnel and affiliates owned more than 60% of MCAP's sponsor. MCAP entered into a business combination agreement that closed on December 22, 2021.

Facts

Failure to Disclose SPAC Conflicts

6. A SPAC generally is a shell company that is organized for the purpose of merging with or acquiring one or more unidentified private operating companies within a certain time frame (often two years) and that conducts a firm commitment underwritten initial public offering of $5 million or more in redeemable shares and, at times, warrants. A SPAC sponsor is the entity and/or persons primarily responsible for organizing, directing, or managing the business and affairs of a SPAC. The sponsor typically is compensated through an amount equal to a percentage (often 20% to 25%) of the SPAC's initial public offering proceeds (in the form of discounted shares and, at times, warrants). This sponsor compensation is often referred to as the sponsor's "promote" or "founder shares," and it is received upon completion of a SPAC's business combination.

7. From at least June 2018 through February 2021, Monroe Capital personnel were involved in the formation and/or became members of the sponsor of three SPACs: Thunder Bridge I, Thunder Bridge II, and MCAP. Monroe Capital personnel and affiliates shared approximately 25%, 20%, and 60% of the ownership of the sponsors of Thunder Bridge I, Thunder Bridge II, and MCAP, respectively.

8. As a result of their ownership interests in the sponsors of Thunder Bridge I, Thunder Bridge II, and MCAP, Monroe Capital personnel were entitled to receive a portion of the SPAC sponsor compensation. Accordingly, Monroe Capital personnel had material conflicts of interest that could affect the advisory relationship between Monroe Capital and its advisory clients, and could cause Monroe Capital to render advice that was not disinterested.

9. For instance, Monroe Capital personnel had financial incentives to cause Monroe Capital advisory clients to make SPAC-related investments that could help Thunder Bridge I, Thunder Bridge II, and MCAP complete business combinations because the value of sponsor economics was connected to the SPACs' completion of business combinations. Monroe Capital had the power to make investment decisions on behalf of private funds that Monroe Capital advised, including by causing such private funds to purchase securities in PIPE transactions to assist with financing SPAC business combinations. In connection with the business combinations consummated by Thunder Bridge I, Thunder Bridge II, and MCAP, Monroe Capital caused private funds it advised to participate in PIPE transactions in the amount of $25 million, $7.5 million, and $5 million, respectively. In addition, Monroe Capital caused its advisory clients to purchase, on the open market, approximately $15 million of MCAP common stock prior to the closing of its business combination.

10. Thus, Monroe Capital personnel had conflicts of interest that, among other things, could affect both whether or not Monroe Capital selected certain investments on behalf of its advisory clients as well as the size and scope of any such investments.

11. However, Monroe Capital failed to make timely disclosure of its SPAC-related conflicts of interest to the private funds it advised. The limited partnership agreements for certain private funds empowered Monroe Capital to consult with an advisory committee comprised of limited partners not affiliated with Monroe Capital regarding, and potentially to obtain informed consent concerning, certain matters involving a conflict of interest. Nevertheless, Monroe Capital did not consult any such advisory committee to consider the PIPE transactions or open market purchases related to the Thunder Bridge I, Thunder Bridge II, and MCAP business combinations, or any other activities related to Thunder Bridge I, Thunder Bridge II, and MCAP. Monroe Capital did not otherwise obtain informed consent from independent representatives of the private funds or their limited partners upon entering into the PIPE transactions or making open market purchases related to Thunder Bridge I, Thunder Bridge II, and MCAP.

Compliance Deficiencies

12. Monroe Capital took certain steps to address conflicts of interest associated with the trading of securities following the completion of the SPACs' business combinations. Nonetheless, Monroe Capital failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder concerning Monroe Capital personnel's co-ownership of SPAC sponsors and Monroe Capital's investment of client assets in SPACs affiliated with those sponsors. Monroe Capital personnel became involved in multiple SPACs for which certain of Monroe Capital's supervised persons co-owned the sponsoring entities, but Monroe Capital lacked policies and procedures reasonably designed to provide appropriate disclosure about this business practice and the associated conflicts of interest to advisory clients and investors in Monroe Capital-managed funds, or to appropriately disclose or eliminate the conflicts related to Monroe Capital's investments on behalf of advisory clients in such affiliated SPACs.

Beneficial Ownership Reporting Failures

13. Under Section 13(d)(1) of the Exchange Act, any person who has acquired beneficial ownership of more than 5% of any equity security of a class registered under Section 12 of the Exchange Act must publicly file, within 10 days after the acquisition, a disclosure statement with the Commission. Exchange Act Rule 13d-1(a) requires the statement to contain the information specified by Schedule 13D, which includes, among other things, the identity of the beneficial owners, the amount of beneficial ownership, and plans or proposals regarding the issuer.

14. However, as an alternative, certain statutory provisions and rules allow the use of short-form disclosure statements on Schedule 13G with differing timing requirements under certain conditions. Exchange Act Rule 13d-1(c) provides that, in lieu of filing a Schedule 13D, a person may file a short-form statement on Schedule 13G within 10 days after the triggering acquisition if the person "has not acquired the securities with any purpose, or with the effect of, changing or influencing the control of the issuer, or in connection with or as a participant in any transaction

having that purpose or effect," and is not directly or indirectly the beneficial owner of 20% or more of the class of securities.

15. Exchange Act Rule 13d-2(b) requires that a person filing a Schedule 13G pursuant to Rule 13d-1(c) must file an annual amendment within 45 days after the end of each calendar year if there are any changes in the information reported in the previous filing on that Schedule, unless certain limited exceptions apply.

16. On July 22, 2019, Monroe Capital filed a Schedule 13G reporting beneficial ownership of 6.5% of the outstanding common stock of Repay Holdings Corporation. Monroe Capital indicated that the Schedule 13G was filed pursuant to Exchange Act Rule 13d-1(c). As reported on the Schedule 13G, certain of Monroe Capital's advisory clients and its control person ("Monroe Affiliates") shared direct or indirect beneficial ownership of the Repay Holdings Corporation common stock. Monroe Capital took responsibility for making beneficial ownership filings for the Monroe Affiliates.

17. As of the end of calendar year 2019, the number of shares of Repay Holdings Corporation common stock beneficially owned by Monroe Capital and Monroe Affiliates had changed from the amounts previously set forth, which was not reported on an amendment to the Schedule 13G within 45 days after the end of the calendar year, in violation of Rule 13d-2(b).

18. As of the end of calendar year 2020, the number of shares of Repay Holdings Corporation common stock beneficially owned by Monroe Capital and Monroe Affiliates had changed from the amounts previously set forth (and from amounts that would have been set forth in a properly filed Schedule 13G amendment concerning Monroe Capital's beneficial ownership as of the end of calendar year 2019), which was not reported on an amendment to the Schedule 13G within 45 days after the end of the calendar year, in violation of Rule 13d-2(b).

19. On November 1, 2022 and December 14, 2022, after being contacted by Commission staff, Monroe Capital filed Schedule 13G amendments to report beneficial ownership information for itself and the Monroe Affiliates as of December 31, 2020 and December 31, 2019, respectively.

Violations

20. As a result of the conduct described above, Respondent willfully[2] violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or

[2] "Willfully," for purposes of imposing relief under Section 203(e) of the Advisers Act, "'means no more than that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the

indirectly, to "engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

21. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

22. As a result of the conduct described above, Respondent violated Section 13(d) of the Exchange Act and Rule 13d-2 thereunder and caused the Monroe Affiliates to violate such provisions.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Monroe Capital's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Monroe Capital cease and desist from committing or causing any violations and any future violations, of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, and Section 13(d) of the Exchange Act and Rule 13d-2 thereunder.

B. Respondent Monroe Capital is censured.

C. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of $1 million to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Monroe Capital Management Advisors, LLC as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Brendan P. McGlynn, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, 1617 JFK Blvd., Suite 520, Philadelphia, PA 19103.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary