

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 99513 / February 12, 2024**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20252**

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**In the Matter of** :

**Scott T. Wolfrum,** :

**Respondent.** :

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**NOTICE OF PROPOSED PLAN OF  
DISTRIBUTION AND  
OPPORTUNITY FOR COMMENT**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20253**

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**In the Matter of** :

**Tyler C. Sadek,** :

**Respondent.** :

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Notice is hereby given, pursuant to Rule 1103 of the United States Securities and Exchange Commission's (the "Commission") Rules on Fair Fund and Disgorgement Plans (the "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 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")<sup>1</sup> 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

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<sup>1</sup> Exchange Act Rel. No. 91401 (Mar. 24, 2021).

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.

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").<sup>2</sup> 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 civil money penalty and Sadek to pay a \$30,000 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").

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.

## **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 Keshia Ellis, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5306. 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:

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<sup>2</sup> Advisers Act Rel. No. 5707 (Mar. 24, 2021).

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](mailto:rule-comments@sec.gov).

Comments submitted by email or via the Commission’s website should include “Administrative Proceeding File Nos. 3-20252 and 3-20253” 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 Fund<sup>3</sup> is comprised of the \$266,479.00 in disgorgement, prejudgment interest, and civil money penalties paid by the Wolfrum and Sadek, plus any interest and income earned thereon, less taxes and administrative costs. The Proposed Plan provides for the distribution of the Net Available Fair Fund to those investors who suffered losses in connection with the undisclosed use and misappropriation of finder’s fees associated with investing in the Foundry Mezzanine Opportunity Fund from January 4, 2016 through October 12, 2017.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.<sup>4</sup>

Vanessa A. Countryman  
Secretary

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<sup>3</sup> All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Proposed Plan.

<sup>4</sup> 17 C.F.R. § 200.30-4(a)(21)(iii).