

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 74812 / April 27, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16014**

---

**In the Matter of**

**Keith MacDonald Summers,**

**Respondent.**

---

:  
:  
:  
:  
:  
:  
:

**ORDER APPROVING**  
**PLAN OF DISTRIBUTION**

On August 13, 2014, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”) against Keith MacDonald Summers (“Summers”).<sup>1</sup> The Order found that Summers breached his fiduciary duty and defrauded Tricoastal Capital Partners, LLC (“TCP Fund”), his advisory fund client, and its investors between July 2009 and July 2013. The Order required that Summers, among other things, pay disgorgement of \$4,117,658.15 to the Commission, which he partially satisfied through the transfer of the outstanding balance in TCP Fund’s brokerage account (\$1,396,322.27) and the outstanding balance of TCP Fund’s corporate bank account (\$1,261.65). The remaining amount of disgorgement was deemed satisfied by the restitution orders in R v. Summers, Information No. 12000143, provided that Summers did not withdraw his guilty plea in R v. Summers.<sup>2</sup> In August 2014, a total of \$1,397,583.92 was paid to the Commission. This amount constitutes the “Disgorgement Fund.”

On March 10, 2015, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment<sup>3</sup> (“Notice”) pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans.<sup>4</sup> The Notice advised interested persons that they could obtain a copy of the proposed Plan of Distribution (“Plan”) from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Susan S. Pecaro, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631.

---

<sup>1</sup> Securities Act Rel. No. 9630 (Aug. 13, 2014).

<sup>2</sup> On October 8, 2014, Justice Sheila Ray of the Ontario Court of Justice (Toronto Region) sentenced Summers to three years incarceration, and ordered Summers to pay restitution of \$4,329,986.76, including \$4,117,658.15, to the defrauded investors in TCP Fund. Justice Ray also ordered forfeiture of \$61,953.03, an amount representing Summers’ share of the proceeds from the sale of his marital home.

<sup>3</sup> Exchange Act Rel. No. 74461 (Mar. 10, 2015).

<sup>4</sup> 17 C.F.R. § 201.1103.

The Notice also advised that all persons desiring to comment on the Plan could submit their comments, in writing, no later than thirty (30) days from the date of the 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). The Commission received no comments on the Plan.

The Disgorgement Fund is comprised of \$1,397,583.92 paid by Summers to the Commission. The Plan proposes to distribute a pro rata share of investors' losses to those TCP Fund clients that have been harmed by the misrepresentations, omissions, and misappropriations described in the Order ("Eligible Clients") according to the methodology described in the Plan.

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

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules on Fair Fund and Disgorgement Plans,<sup>5</sup> that the Plan is approved.

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

Brent J. Fields  
Secretary

---

<sup>5</sup> 17 C.F.R. § 201.1104.