

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 74461 / March 10, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16014

In the Matter of

Keith MacDonald Summers,

Respondent.

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

Notice is hereby given, pursuant to Rule 1103 of the 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 ("Plan") for the distribution of monies paid in the above-captioned matter.

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").¹ 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.² In August 2014, a total of \$1,397,583.92 was paid to the Commission. This amount constitutes the "Disgorgement Fund."

The Disgorgement Fund is being held in a Commission designated non-interest bearing account at the United States Treasury. The Commission does not anticipate that the

¹ See Securities Act Rel. No. 9630 (Aug. 13, 2014).

² 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.

Disgorgement Fund will receive additional funds. The assets of the Disgorgement Fund are subject to the continuing jurisdiction and control of the Commission.

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 Plan by submitting a written request to Susan S. Pecaro, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5631. All persons who desire to comment on the Plan may submit their comments, in writing, no later than thirty (30) days from the date 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 email to rule-comments@sec.gov.

Comments submitted should include "Administrative Proceeding File No. 3-16014" in the subject line. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available.

THE PROPOSED PLAN OF DISTRIBUTION

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.

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

Brent J. Fields
Secretary