



Frank Lorenzo chose to contest the charges. Following an initial decision by the Administrative Law Judge and an appeal to the Commission, the Commission issued an opinion and an order ordering him to cease-and-desist from violations of the antifraud provisions charged, imposing industry bars, and ordering him to pay a \$15,000 penalty. *See* Securities Act Rel. No. 9762 (Apr. 29, 2015) (Opinion of the Commission) (the “Opinion”). Following the Commission’s subsequent denial of reconsideration, Securities Act Rel. No. 9803 (June 3, 2015), on July 1, 2015, Frank Lorenzo filed a petition for review with the U.S. Court of Appeals for the District of Columbia Circuit. *Francis Lorenzo vs. SEC*, Case No. 15-1202. On September 29, 2017, the Court issued its opinion, in which it granted Frank Lorenzo’s petition for review in part, vacated the sanctions imposed by the Commission, and remanded the matter for further consideration.

Pursuant to the Order, a Fair Fund was created under Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended. The Fair Fund is comprised of the disgorgement, prejudgment interest and penalties paid and to be paid by Respondents for distribution to affected customers of Charles Vista who suffered harm by virtue of the conduct described in the Order and the Opinion (collectively, “Eligible Customers”).

On March 30, 2015, the Commission issued a Notice of Proposed Plan of Distribution and Opportunity for Comment<sup>3</sup> (“Initial Notice”) pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”).<sup>4</sup> On March 30, 2015, the Commission also published the Initial Proposed Plan of Distribution (“Initial Plan”). The Initial Notice provided that all interested parties desiring to comment on the Initial Plan could submit their comments, in writing, no later than thirty (30) days from the date of the Initial Notice. The Commission received comments on the Initial Plan, and the Commission addressed the comments received on the Initial Plan, and amended the Initial Plan accordingly. On January 5, 2016, the Secretary issued the Notice of the Amended Proposed Plan of Distribution and Opportunity for Comment (“Amended Notice”), and published the Proposed Amended Plan of Distribution (“Amended Plan”). The Amended Notice provided that all interested parties had thirty (30) days to submit a written comment on the Amended Plan. Four comments were received regarding the Amended Plan, two of which were from the same person.

The first comment was received on December 28, 2015.<sup>5</sup> A person who was not identified as an Eligible Customer for this distribution inquired as to how he could find out if he was one of the Eligible Customers. After receiving the comment, the staff informed the commenter that there was a proposed Amended Plan dated January 5, 2016, and that the proposed distribution in this matter is limited to investors that were harmed by the conduct described in the Order, and that the Order was based on misconduct pertaining to customers who purchased convertible debentures issued by W2E between approximately September 2009 through May 2010. The staff further informed the commenter that if he would like, the commenter could provide the staff with any materials or information regarding potentially eligible investments for the staff’s consideration and review. The commenter did not respond and did not provide any additional documents, materials, or correspondence regarding his investment. The Amended Plan clarifies who is an Eligible Customer, and the commenter’s

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<sup>3</sup> Exchange Act Rel. No. 74607 (Mar. 30, 2015).

<sup>4</sup> 17 C.F.R. § 201.1103.

<sup>5</sup> This comment was received prior to the issuance of the Amended Notice and publication of the Amended Plan on January 5, 2016.

comment regarding the clarification of eligibility has been considered, deliberated upon and is addressed in the Amended Plan. As a result, the Commission did not make any changes to the Amended Plan based on this comment.

Two comments were received on January 25, 2016, and on February 29, 2016 – both of which were submitted by the same person. This person, who is not on the Amended Plan’s list of Eligible Customers, inquired as to what he needed to do in order to become an Eligible Customer, and provided documentation regarding his securities purchases, which appears to show a purchase of stock in February 2008 through a “unit” offering by a predecessor entity to what eventually became the publicly held Waste2Energy Holdings. The staff reviewed and considered the documentation submitted. Because the commenter purchased securities other than those at issue in the Commission’s Order and the purchases were made in February 2008, prior to the relevant time period, the commenter had not been injured as a result of the fraudulent conduct that is the subject of the Commission’s Order. The Commission’s Order describes and was based on misconduct involving the shares of W2E debentures by Charles Vista from approximately September 2009 through May 2010. Accordingly, no changes to the Amended Plan were made based on these two comments.

Another comment was received on September 25, 2016 by a person who stated that in 2008 he “purchased \$25,000 of convertible debt in [W2E] upon the robust recommendation of Gregg Lorenzo, CEO and founder of Charles Vista” who told him “W2E was a growing company with a bright future.” The commenter further stated that he “asked Gregg about my investment numerous times and he was repeatedly optimistic about W2E’s prospects.” The commenter stated he believes “Gregg knowingly misrepresented the financial aspects of W2E when he recommended my investment purchase.” The staff reviewed its files and found evidence that this commenter invested \$11,500 in a W2E 12% debenture in May 2010, during the relevant period, and that the firm that sold this investment was Charles Vista. The staff’s records that showed that the commenter made an earlier investment of \$25,000 through a different broker-dealer (“Broker One”) that employed Gregg Lorenzo before Gregg Lorenzo left that firm and established Charles Vista in early 2009. The commenter only recalled making a \$25,000 investment in W2E in 2007 or 2008.

The commenter’s statements and the records reviewed by the staff indicated that the commenter’s \$25,000 investment was outside the time period covered by the Order.<sup>6</sup> Because the commenter’s apparent purchase of the \$11,500 W2E debenture would have been within the period covered by the Order, the staff interviewed the commenter to determine if there was evidence that Gregg Lorenzo made material misrepresentations to the commenter in connection with his purchase of the \$11,500 W2E debenture. The commenter did not recall making the \$11,500 purchase. The staff asked the commenter about statements that Gregg Lorenzo made to him in connection with the investment he recalled making in W2E. Based on the statements recounted, there was insufficient evidence to establish that the commenter had been defrauded as a result of the Respondents’ conduct. Accordingly, no changes to the Amended Plan were made based on this comment.

The Commission has reviewed and carefully considered the comments received, and believes that further amendments to the Amended Plan are not warranted.

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<sup>6</sup> In addition, although there was evidence that the commenter made a \$25,000 investment at Broker One and that Gregg Lorenzo was credited with generating that investment in Broker One’s records, there was no indication in those records that the \$25,000 was invested in W2E.

Consistent with the approach used by district courts when considering whether to approve a distribution plan, the Commission's objective is to distribute Fair Funds and Disgorgement Funds in a fair and reasonable manner, taking into account relevant facts and circumstances. *See Official Committee of Unsecured Creditors of Worldcom, Inc. v. SEC*, 467 F.3d 73, 82 (2d Cir. 2006) ("So long as the district court is satisfied that 'in the aggregate, the plan is equitable and reasonable,' the SEC may engage in the 'kind of line-drawing [that] inevitably leaves out some potential claimants'" (quoting *SEC v. Wang*, 944 F.2d 80, 88 (2d Cir. 1991))). The Amended Plan provides for a fair and reasonable distribution of the funds as it seeks to distribute the funds available to those investors who were defrauded by the specific conduct described in the Order.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Rules, 17 C.F.R. § 201.1104, that the Amended Plan is approved.

By the Commission.

Brent J. Fields  
Secretary