

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99454 / January 31, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-20792

In the Matter of	:	ORDER AUTHORIZING THE TRANSFER
	:	TO THE U.S. TREASURY OF THE
	:	REMAINING FUNDS AND ANY FUNDS
Educators Financial Services, Inc.,	:	RETURNED TO THE FAIR FUND IN THE
	:	FUTURE AND TERMINATING THE FAIR
Respondent.	:	FUND
	:	

On March 4, 2022, the Commission issued an Amended Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to 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 (the “Order”)¹ against Educators Financial Services, Inc. (the “Respondent”). In the Order, the Commission found that Respondent (1) failed to consistently aggregate the value of all accounts held by family members living in the same household when determining the fee rate, causing certain clients to pay a higher advisory fee than they should have; and (2) failed to refund pre-paid advisory fees after clients terminated the advisory relationship. Respondent also purchased, recommended, or held for advisory clients mutual fund share classes that charged 12b-1 fees instead of lower-cost share classes of the same funds that were available to the clients. Respondent failed to adequately disclose all material facts regarding this conflict of interest and breached its duty to seek best execution by causing certain advisory clients to invest in fund share classes that charged 12b-1 fees when share classes of the same funds that presented a more favorable value for these clients under the particular circumstances in place at the time of the transactions were available to the clients. In addition, Respondent failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Investment Advisers Act of 1940 and the rules thereunder in connection with its billing practices and its mutual fund share class selection.

The Commission ordered the Respondent to pay \$1,107,490.55, comprised of \$727,843.61 in disgorgement, \$129,646.94 in prejudgment interest and \$250,000.00 in civil penalty. In the Order, the Commission created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the civil penalty, along with the disgorgement and prejudgment interest, collected could be distributed to harmed investors (the “Fair Fund”).

¹ Advisers Act Rel. No. 5976 (Mar. 4, 2022).

Pursuant to the Order, the Respondent was responsible for administering the Fair Fund at its own expense pursuant to a calculation specified in the Order. The Respondent fully compensated affected investors for their losses, plus reasonable interest. A \$10 *de minimis* was applied for closed investor accounts and no *de minimis* was applied for current investor clients of Respondent. The Respondent issued 3,764 checks and wire transfers, totaling \$907,819.77, of which \$900,254.97 was successfully disbursed (99.17%) to recipients. A total of \$207,235.58 remains in the Fair Fund, representing uncashed checks, returned funds, *de minimis* payments, and funds that were not needed to fully compensate investors.

The Order further requires the Respondent to provide a final accounting to the Commission staff for submission to the Commission for approval. Upon approval of the final accounting, all remaining amounts in the Fair Fund that are infeasible to return to investors, and any funds returned in the future that are infeasible to return to investors, are to be sent to the U.S. Treasury. The final accounting has been submitted to the Commission for approval, as required by the Order, and has been approved.

Accordingly, it is ORDERED that:

- A. the remaining funds in the amount of \$207,235.58 that are infeasible to return to investors, and any funds returned to the Fair Fund in the future that are infeasible to return to investors, shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)]; and
- B. the Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman
Secretary